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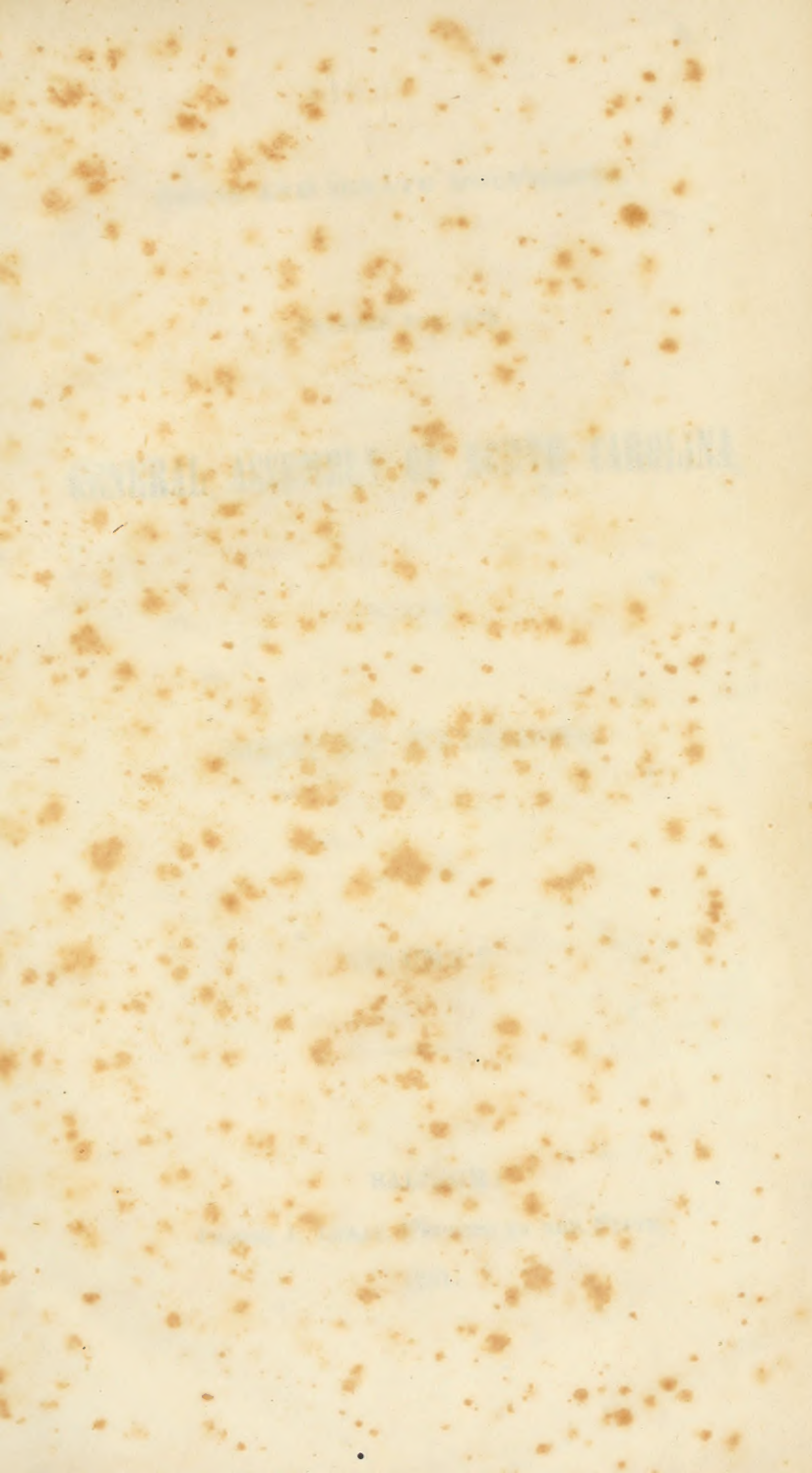


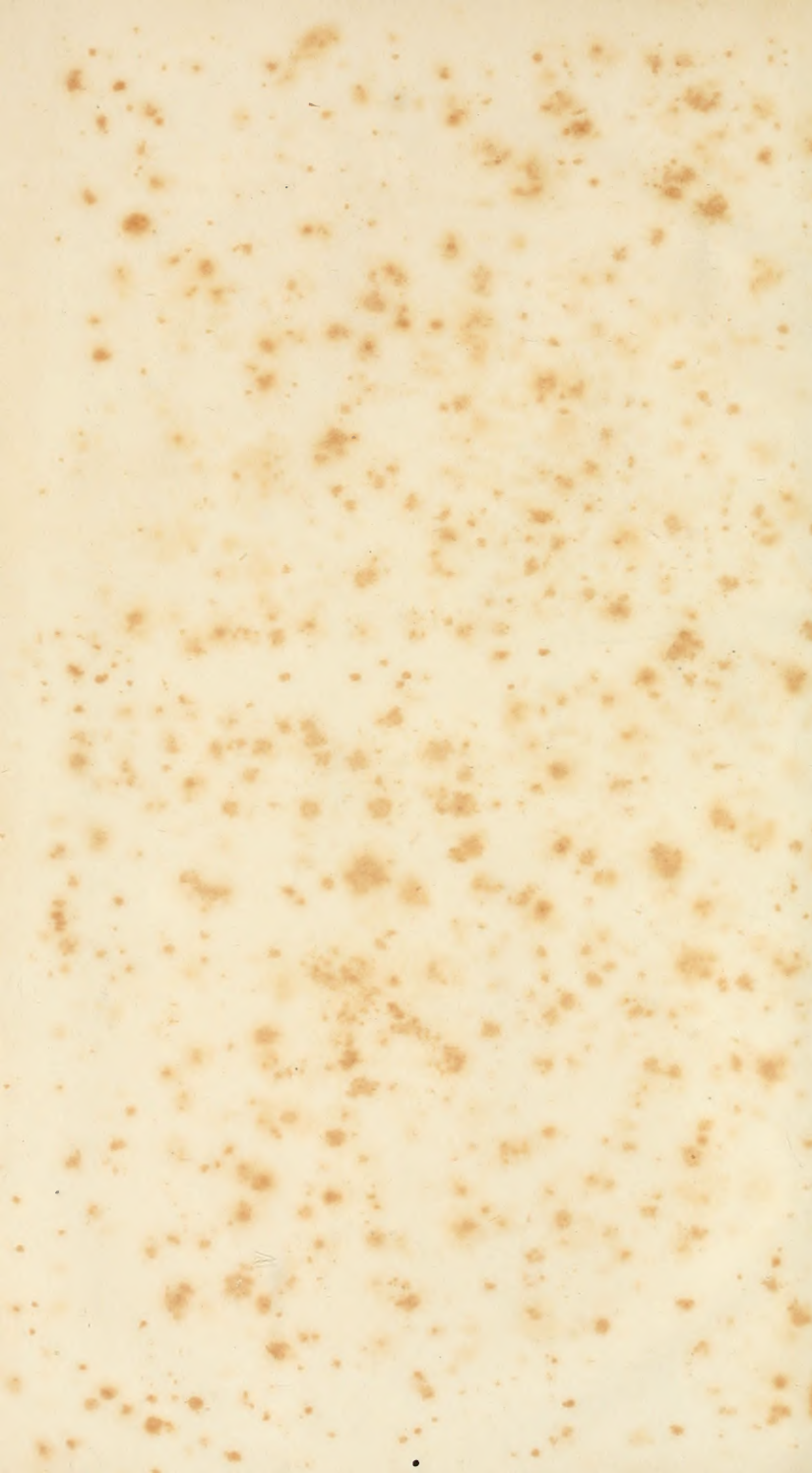
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HOUSE AND SENATE DOCUMENTS,

PRINTED FOR THE

GENERAL ASSEMBLY OF NORTH CAROLINA,

AT THE

SESSION OF 1850-51.

VOLUME 2.

RALEIGH:

THOMAS J. LEMAY, PRINTER TO THE STATE,

1851.

HOUSE AND SENATE DOCUMENTS

PRINTED FOR THE

GENERAL ASSEMBLY OF NORTH CAROLINA

AT THE

SESSION OF 1860

VOLUME 1

RAILROADS

THOMAS J. LANE, REPORT TO THE STATE

1861

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A B I L L

PROVIDING FOR

THE CALL OF A CONVENTION

TO AMEND THE

CONSTITUTION OF THE STATE.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

A BILL

Providing for the call of a Convention to amend the Constitution of the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Court of Pleas and Quarter Sessions for each and every County in this State, at the first Term that shall be held after the first day in January, one thousand eight hundred and fifty one, shall appoint two inspectors to superintend the polls, to be opened at each and every election precinct in said counties, on the first Thursday in August next, to elect Delegates to a State Convention, to assemble at the City of Raleigh, on the third Monday in November next, and if any Court or Courts shall fail to make such appointment of inspectors, or if any inspector so appointed shall fail to act, it shall be the duty of the Sheriff or the person acting as his Deputy on such occasions, with the advice of one Justice of the Peace, or if none be present, with the advice of three freeholders, to appoint an inspector or inspectors in the place of him or them who fail to act, which inspectors, when duly sworn, by some Justice of the Peace, or freeholder, to perform the duties of the place with fidelity, shall have the same authority as if appointed by the Court.

II. *Be it further enacted,* That it shall be the duty of the several Sheriffs of the respective Counties in this State to open polls, at the several election precincts in said Counties on the said 1st Thursday in August 1851, for the election of said Delegates to said Convention, to assemble as aforesaid, when and where all persons quali-

7 fied by the Constitution to vote for members of the House
8 of Commons may vote for said Delegates.

III. *Be it further enacted*, That it shall be the duty
2 of the Clerk of the Courts of Pleas and Quarter Sessions,
3 immediately after the Courts at which said Inspectors are
4 appointed to furnish the Sheriff of their respective Coun-
5 ties, with a list of the persons appointed to act as inspec-
6 tors of the polls, at the several places of election; and the
7 Sheriff shall notify such persons of their appointment at
8 least ten days before the day of election.

IV. *Be it further enacted*, That said elections shall
2 be held and returns thereof made in the same manner
3 and under the same rules and regulations that are now
4 prescribed by law for holding elections for members of
5 the House of Commons of the General Assembly.

V. *Be it further enacted*, That the persons having
2 the largest number of votes polled, shall be deemed duly
3 elected; and should any two persons have an equal num-
4 ber of votes, the Sheriff shall declare by his casting vote
5 the person duly elected.

VI. *Be it further enacted*, That the several County
2 Courts shall allow the Sheriffs the same compensation for
3 holding the elections, that they have heretofore been al-
4 lowed for holding other State elections. And if any
5 Sheriff or other officer appointed to hold said election,
6 shall fail to comply with the provisions of this act he
7 shall be liable to a fine of one thousand dollars, recovera-
8 ble in the County or Superior Court, to the use of the
9 County whose officer he is; and it shall be the duty of
10 the several Solicitors to institute and prosecute suits
11 therefor in the name of the State.

VII. *Be it further enacted*, That all free white men
2 of the age of twenty one years, who shall have been a
3 resident in this State, for one year previous to, and shall
4 continue to be so resident at the time of said election, shall
5 be eligible to a seat in said Convention.

VIII. *Be it further enacted*, That each County in

2 this State shall be entitled to elect the same number of
 3 Delegates to said Convention, that said County is entitled
 4 to members in the House of Commons in the General As-
 5 sembly, and no more.

IX. *Be it further enacted*, That if any person who
 2 shall be elected to represent any County in said Conven-
 3 tion, shall before the meeting die, or, from any other cause,
 4 fail, refuse or neglect or delay to accept of his said ap-
 5 pointment, it shall be the duty of the Sheriff of the Coun-
 6 ty, in which said person so elected resides or did reside,
 7 to notify the Governor of the same forthwith; and the said
 8 Sheriff, for neglect of duty herein, shall be subject to
 9 indictment in any Court of Record, and on conviction,
 10 shall be fined or [imprisoned at the discretion of the
 11 Court.

X. *Be it further enacted*, That if any person who
 2 shall be elected to represent any County in said Conven-
 3 tion, shall, before the meeting of the Convention, resign,
 4 refuse, or decline to accept and attend the duties of his
 5 said appointment, it shall be the duty of such person to
 6 notify the Governor immediately, in writing, of such his
 7 determination.

XI. *Be it further enacted*, In all vacancies that shall
 2 occur, by death, resignation or otherwise, before the meet-
 3 ing of such Convention, it shall be the duty of the Gov-
 4 ernor, upon being notified thereof, as aforesaid, to issue
 5 a writ of election to the Sheriff of the County, wherein
 6 such vacancy shall have occurred, commanding him to
 7 hold an election for a delegate of the Convention to sup-
 8 ply such vacancy, at a certain time therein to be speci-
 9 fied, and under the same rules and regulations as are pre-
 10 scribed for holding the election at the regular time.

XII. *Be it further enacted*, That the said Convention
 2 shall have power to adopt alterations and amendments to
 3 the Constitution of this State; shall prescribe the mode
 4 for the ratification of the same by the people; and shall
 5 make all necessary ordinances and regulations for giving

6 full operation and effect to the Constitution, as altered
7 and amended.

XIII. *Be it further enacted*, That the Public Treas-
2 urer be, and he is hereby authorised to pay, upon the
3 warrant of the Governor, such sums of money, as shall
4 be necessary for the contingent expenses of the conven-
5 tion, and also to pay each member of the Convention, one
6 dollar and fifty cents per day for each day he shall attend
7 said Convention, and five cents for every mile he may
8 travel to and from said Convention.

XIV. *Be it further enacted*, That provided a quo-
2 rum of the delegates elected to said Convention shall not
3 attend on the said third Monday in November next, the
4 Delegates who shall attend may adjourn, from day to day,
5 until a quorum is present, and a majority of the Delegates
6 elected, shall constitute a quorum to transact business.

A BILL

TO ENSURE

THE MORE FAITHEUL OBSERVANCE

OF THE

CONSTITUTION OF THE U. STATES, &c.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

A BILL

To ensure the more faithful observance of the Constitution of the United State ; to assert the right of the Southern States to a fair share in all the benefits of the Government ; to encourage domestic industry, and direct trade with foreign nations.

I. Be it enacted by the General Assembly of the State of North Carolina, That in addition to the provisions of the existing Revenue Laws, every merchant, pedlar, factor, and trader, of whatsoever description, shall be subject to the following regulations : Every such person shall, on the first day of January, in the year of our Lord, 1852, or as soon thereafter as may be convenient, state upon oath and in writing, before the Clerk of the Court of Pleas and Quarter Sessions, in and for the County in which he resides, or in any other County, where he is engaged in trade, the value of all the goods, wares and merchandise of every kind which he may have on hand for sale; and upon the sum so set forth by him, there shall be imposed a tax of ten per cent. *ad valorem*, which said tax shall be collected and paid to the State in the same manner as all other taxes are collected and paid: Provided, nevertheless, that if he shall state upon affidavit that the whole or any part of said goods is the growth, produce or manufacture of any one of the following States, viz: Delaware, Maryland, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Louisiana, Arkansas, Texas, Missouri, Florida, or of any foreign country, then the aforesaid tax of ten per cent. due upon such part, shall not be collected; and said merchant or trader shall be exempt from paying the

26 same leaving him subject only to the tax on all such articles
 27 as may have been produced or manufactured in any of
 28 the States of this Union, not named in this act.

II. *And be it further enacted*, That on the first day of
 2 January, in each and every year, succeeding the time spe-
 3 cified in the above section, or as soon thereafter as may
 4 be practicable, every such merchant, trader &c, shall in
 5 like manner state upon oath before the Clerk of the
 6 Court of Pleas and Quarter Sessions, as afore said, the
 9 value in cash of all the purchases of goods, wares and mer-
 10 chandise made by him in the preceding twelve months of
 11 each year, upon which a similar tax of ten per cent. *ad*
 12 *valorem* shall be imposed and collected in like manner
 13 as herein before provided, and subject to the exceptions
 41 aforesaid.

III. *Be it further enacted*, That if after three months
 2 from the first day of January, in each year, after the
 3 year 1852, any such merchant or trader, shall have failed
 4 to comply with the above provisions of this act, it shall be
 5 the duty of the Sheriff of the County, wherein such failure
 6 shall have occurred to collect double the said tax from
 7 such person, so failing as aforesaid: Provided, neverthe-
 8 less, that the Courts may release him as in other cases of
 9 double tax.

IV. *Be it further enacted*, that if any merchant, tra-
 2 der &c. shall make a false statement under the provisions
 3 of this act, with an intent to defraud the State, he shall be
 4 deemed guilty of perjury, and shall be proceeded against
 5 as in other cases of like nature; or if any such person, by
 6 any shift, device or evasion, shall attempt to avoid the pay-
 7 ment of the tax herein before imposed, he shall be held
 8 guilty of a misdemeanor; and upon his conviction, before
 9 any court of record in the State, it shall be the duty of
 10 the court, in behalf of the State, to render judgment against
 11 him in double the sum of the tax which he has so fraud-
 12 ulently endeavored to avoid the payment of; and in ad-
 13 dition to said judgment, he shall be liable to fine and
 41 imprisonment as in other cases of misdemeanor.

V. *Be it further enacted*, That every such merchant
 2 or trader as above described shall, in answer to any in-
 3 quiry made by any customer or purchaser. state truly,
 4 according to the best of his knowledge or belief, the place
 5 where any article which he may offer for sale, was pro-
 6 duced, grown or manufactured; and if he shall intention-
 7 ally make a false statement, in this respect,, he shall for-
 8 feit and pay the sum of ten dollars, in each instance, to
 9 be recovered by warrant, before any Justice of the Peace,
 10 one half of which said penalty, shall go to any person
 11 who may sue for the same, the other to the State.

VI. *Be it further enacted*, That every such merchant
 2 trader &c. as aforesaid, from and after the first day of
 3 January, in the year of our Lord 1853, shall be liable to
 4 an annual tax of one hundred dollars, *Provided never-*
 5 *theless*, That if such person shall make it appear by
 6 his own affidavit or otherwise, before the Clerk of the
 7 County Court as aforesaid, that his purchases for said
 8 year have been wholly made in any of the above named
 9 slave holding States, he shall then be exempt from the
 10 payment of said tax.

VII. *Be it further enacted*, That if within three years
 2 from the passage of this act, all the above named slave
 3 holding States shall not have passed a law or laws sim-
 4 ilar to this, then the exemptions herein contained, shall
 5 be held to extend only to the productions of such States as
 6 have adopted similar laws to this.

VIII. *Be it further euacted*, That the provisions of
 2 this law shall remain in force until the Territories of the
 3 United States, shall be opened to the citizens of North
 4 Carolina, in the possession and enjoyment of every species
 5 of property which they may now lawfully hold wthin
 6 the limits of said State; and until the Constitutional pro-
 7 vision relative to the delivery of fugitive slaves shall be
 8 faithfully carried out in practice throughout the United
 9 States.

IX. *Be it further enacted*, That His Excellency the
 2 Governor of this State, be, and he is hereby respectfully
 3 requested to transmit a copy of this act to the Governor of
 4 each of the States above named, with a request that it
 5 be laid before the Legislatures of the same in the hope
 6 that they will pass a similar law or laws.

A BILL

TO PROVIDE

FOR THE APPOINTMENT

OF A

Superintendent of Common Schools,

AND FOR

OTHER PURPOSES.

RALEIGH:

T. J. Lemay, Printer to the State.

1350.

A BILL

To provide for the appointment of a Superintendent of Common schools, and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That there shall be appointed a superintendent of common Schools for the State ; the said officer to be chosen by the Legislature, and to hold his office for two years from the first day of January next succeeding his appointment.

II. *And be it further enacted,* That the said superintendent, with the advice and concurrence of the President and Directors of the Literary Fund, shall prescribe the books to be used as text books in all the free schools of the State; and that for this purpose, the President and Directors of the Literary Fund, and the said superintendent, shall, on the notice of the President and at the suggestion of the Superintendent, convene in the City of Raleigh at least once in every year.

III. *And be it further enacted,* That the said Superintendent shall, as soon as possible, inform himself of the condition of the Common School system in each county in the State—and shall cause suits to be brought in the Superior Court of Wake county, and in the name of the President and Directors of the Literary Fund, against such chairman of a board of county superintendents and his sureties, as, for one or more years preceding the passage of this act, has failed to report to the President and Directors of the Literary Fund, according to the provisions of the 18th and 19th sections of an act of the General Assembly, passed at the session of 1811-45, and enti-

13 tled an act to consolidate and amend the acts heretofore
 14 passed on the subject of Common Schools. Which suits
 15 shall be prosecuted to a recovery for the balance due from
 16 such chairman, and unaccounted for by him, and the
 17 several sums received by the Treasurer of the State, and
 18 credited by him to the Literary Fund.

IV. *And be it further enacted*, That the said superin-
 2 tendent shall cause actions to be brought, according to the
 3 provisions of the foregoing sections, against each chair-
 4 man of a county board of superintendents and his sure-
 5 ties, whenever said chairman shall fail to report and ac-
 6 count for the monies in his hands at the time required by
 7 this act, and in the manner prescribed in the said 18th
 8 and 19th sections of the act of 1844-'45, "entitled an act
 9 to consolidate and amend the acts heretofore passed on the
 10 subject of Common Schools."

V. *And be it further enacted*, That the board of su-
 2 perintendents for each county, shall render its account in
 3 the manner required by the 18th and 19th sections of an
 4 act of Assembly, passed at its session of 1844-'45, and
 5 entitled "an act to consolidate and amend the acts here-
 6 tofore passed on the subject of Common Schools," to the
 7 Committee of Finance for said county, or to the Clerk of
 8 the County Court, on or before the first Monday in Au-
 9 gust in each year—and the chairman of the board of
 10 county superintendents shall render his annual report,
 11 made in the manner prescribed in the said sections of the
 12 said act of Assembly, passed at the session of 1844-'45,
 13 to the general superintendent, on or before the first Mon-
 14 day of September, in every year.

VI. *And be it further enacted*, That it shall be the
 2 duty of the superintendent of Common Schools for the
 3 State, with the advice and concurrence of the President
 4 and Directors of the Literary Fund, to issue annually, to
 5 the examining committee of each county, a circular letter,
 6 giving information of the number of licensed teachers of
 7 each sex in every county, and making suggestions con-

cerning the character and qualifications which ought to
be necessary to entitle a candidate to the approval of said
committee for the examination of teachers.

VII. *And be it further enacted,* That the chairman of
the board of county superintendents for each county,
shall, in his annual report to the general superintendent,
designate the number of licensed teachers of each sex in
his county, the number of school districts, and the num-
ber and character of free or district school-houses in the
same.

VIII. *And be it further enacted,* That it shall be the
duty of the said general superintendent to inform him-
self accurately of the condition and operation of the sys-
tem of Common Schools in each county in the State; to
ascertain, as far as practicable, the causes which impede
its success; and to attend, personally, in all those coun-
ties, in which county superintendents or committee men
have not been appointed, or in which the school laws are
otherwise neglected, and to use his influence and exertions
to have the system of Common Schools put into opera-
tion, according to the provisions of the different acts of
Assembly on this subject.

IX. *And be it further enacted,* That in those coun-
ties in which the Courts of Pleas and Quarter Sessions
may neglect to appoint a board of county superintend-
ents, at the term held next preceding the first day of Jan-
uary, the courts may, at any other term, (a majority of the
Justices being present,) appoint such superintendents,
who shall hold their offices on the conditions, and con-
duct themselves according to the regulations of the acts
now in force, concerning the subject of Common Schools.
Provided, that the respective boards, elected according
to the provisions of this act, be required to meet and se-
lect their chairman within one month after their appoint-
ment.

X. *And be it further enacted,* That the said general
superintendent shall, within ten days of the first day of

3 November immediately preceding the meeting of the
 4 General Assembly of the State, make a report in writing
 5 to the President and Directors of the Literary Fund, giv-
 6 ing a faithful account of his services under the provisions
 7 of this act; stating the number and names of the coun-
 8 ties in which the system of Common Schools has not
 9 been put into operation, with the causes which have pre-
 10 vented the success of the system and the steps he has
 11 taken to remedy the evils, the number of free schools in
 12 each county, the length of time during which they are
 13 kept open in each year, and the average salaries of the
 14 teachers. He shall also, in his report, make such sug-
 15 gestions, for the improvement and more efficient opera-
 16 tion of the system of Common Schools, as he may deem
 17 proper; and detail the defects and imperfections which
 18 have come under his observation.

XI. *And be it further enacted*, That the said superin-
 2 tendent of Common Schools shall, annually, within ten
 3 days of the first day of November, report to the Presi-
 4 dent and Directors of the Literary Fund, the accounts
 5 rendered to him by the chairmen of the different boards of
 6 county superintendents, with a statement of the suits
 7 brought under the provisions of this act, and of the
 8 boards from whom he has received no returns.

XII. *And be it further enacted*, That the general su-
 2 perintendent shall receive for his services in this behalf,
 3 the sum of eighteen hundred dollars *per annum*, and two
 4 hundred dollars *per annum* for his travelling expenses,
 5 to be paid by the Treasurer of the State, out of monies
 6 belonging to the Literary Fund.

XIII. *And be it further enacted*, That from and after
 2 the passage of this act, the chairman of the board of su-
 3 perintendents for each county, shall be allowed to retain,
 4 by way of compensation for his services, not more than
 5 one and a half *per cent.* on the monies which pass
 6 through his hands, any act or usage to the contrary not-
 7 withstanding.

XIV. *And be it further enacted*, That the superintendent of Common Schools, shall be *ex officio* an agent and corresponding secretary of the Historical Society of the State; and it shall be his duty to endeavor to collect and present to said society, for preservation, all such memorials of the past as may tend to throw light on the history of the State, or any part of the same; or as may tend to illustrate the career in the cause of human rights of such of her distinguished and patriotic sons, as have passed from the scene of action.

A BILL

PROVIDING FOR

THE CALL OF A CONVENTION

TO AMEND THE

CONSTITUTION OF THE STATE.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

A BILL

Calling a Convention to amend the Constitution of the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Court of Pleas and Quarter Sessions for each and every County in this Stste, at the first Term that shall be held after the first day in January, one thousand eight hundred and fifty one, shall appoint two inspectors to superintend the polls, to be opened at each and every election precinct in said counties, on the first Thursday in August next, to elect Delegates to a State Convention, to assemble at the City of Raleigh, on the third Monday in November next; and if any Court or Courts shall fail to make such appointment of inspectors, or if any inspector so appointed shall fail to act, it shall be the duty of the Sheriff or the person acting as his Deputy on such occasions, with the advice of one Justice of the Peace, or if none be present, with the advice of three freeholders, to appoint an inspector or inspectors in the place of him or them who fail to act, which inspectors, when duly sworn, by some Justice of the Peace, or freeholder, to perform the duties of the place with fidelity, shall have the same authority as if appointed by the Court.

II. *Be it further enacted,* That it shall be the duty of the several Sheriffs of the respective Counties in this State to open polls, at the several election precincts in said Counties on the said 1st Thursday in August 1851, for the election of said delegates to said State Convention, to assemble as aforesaid, when and where all persons quali-

7 fied by the Constitution to vote for members of the House
8 of Commons may vote for said Delegates.

III. *Be it further enacted*, That it shall be the duty
2 of the Clerks of the Courts of Pleas and Quarter Sessions,
3 immediately after the Courts at which said Inspectors are
4 appointed to furnish the Sheriff of their respective Coun-
5 ties, with a list of the persons appointed to act as inspec-
6 tors of the polls, at the several places of election; and the
7 Sheriff shall notify such persons of their appointment at
8 least ten days before the day of election.

IV. *Be it further enacted*, That said elections shall
2 be held and returns thereof made in the same manner
3 and under the same rules and regulations that are now
4 prescribed by law for holding elections for members of
5 the House of Commons of the General Assembly.

V. *Be it further enacted*, That the persons having
2 the greatest number of votes, shall be deemed duly
3 elected; and should any two persons have an equal num-
4 ber of votes, the Sheriff shall decide by his casting vote
5 the person duly elected.

VI. *Be it further enacted*, That the several County
2 Courts shall allow the Sheriffs the same compensation for
3 holding the elections, that they have heretofore been al-
4 lowed for holding other State elections. And if any
5 Sheriff or other officer appointed to hold said election,
6 shall fail to comply with the requisitions of this act, he
7 shall be liable to a fine of one thousand dollars, recovera-
8 ble in the County or Superior Court, to the use of the
9 County whose officer he is; and it shall be the duty of
10 the Solicitors to institute and prosecute suits there-
11 for in the name of the State.

VII. *Be it further enacted*, That all free white men
2 of the age of twenty one years, who shall have been
3 resident in this State, for one year previous to, and shall
4 continue to be so resident at the time of said election, shall
5 be eligible to a seat in said Convention.

VIII. *Be it further enacted*, That each County in

2 this State shall be entitled to elect the same number of
 3 Delegates to said Convention, that said County is entitled
 4 to members in the House of Commons in the General As-
 5 sembly, and no more.

IX. *Be it further enacted*, that if any person who shall be
 2 elected to represent any County in said Convention, shall
 3 before the meeting of said convention die, or, from any other
 4 cause, fail, refuse or neglect or delay to accept of his said
 5 appointment, it shall be the duty of the Sheriff of the coun-
 6 ty, in which said person so elected resides or did reside,
 7 to notify the Governor of the same forthwith; and the said
 8 Sheriff, for neglect of duty herein, shall be subject to
 9 indictment in any Court of Record, and on conviction,
 10 shall be fined or imprisoned at the discretion of the
 11 Court.

X. *Be it further enacted*, That if any person who
 2 shall be elected to represent any County in said Conven-
 3 tion, shall, before the meeting of said Convention, resign,
 4 refuse, or decline to accept and attend the duties of his
 5 said appointment, it shall be the duty of such person im-
 6 mediately to notify the Governor, in writing, of such his
 7 determination.

XI. *Be it further enacted*, In all vacancies that shall
 2 occur, by death, resignation or otherwise, before the meet-
 3 ing of said Convention, it shall be the duty of the Gov-
 4 ernor, upon being notified thereof, as aforesaid, to issue
 5 a writ of election to the Sheriff of the County, wherein
 6 such vacancy shall have occurred, commanding him to
 7 hold an election for a delegate of the Convention to sup-
 8 ply such vacancy, at a certain time therein to be speci-
 9 fied, and under the same rules and regulations as are pre-
 10 scribed for holding the election at the regular time.

XII. *Be it further enacted*, That the said Convention
 2 shall have power to adopt alterations and amendments to
 3 the Constitution of this State; shall prescribe the mode
 4 for the ratification of the same by the people; and shall
 5 prescribe all necessary ordinances and regulations for the

5 purpose of giving full operation and effect to the Consti-
7 tution, as altered and amended.

XIII. *Be it further enacted*, That the Public Treas-
2 urer be, and he is hereby authorised to pay, upon the
3 warrant of the Governor, such sums of money, as may
4 be necessary for the contingent charges of the conven-
5 tion, and also to pay each member of the Convention, one
6 dollar and fifty cents per day during his attendance there-
7 on, and five cents for every mile he may travel to and
3 from the Convention.

XIV. *Be it further enacted*, That provided a quo-
2 rum of the delegates elected to said Convention does not
3 attend on the said third Monday in November next, the
4 Delegates who do attend may adjourn, from day to day,
5 until a quorum is present, and a majority of Delegates
6 elected, shall constitute a quorum to do business.

RESOLUTIONS.

[Introduced by Mr SHEPARD. Read and ordered to be printed.]



I. *Resolved*, That the Constitution of the United States was a
2 compromise of conflicting interests, ordained and established
3 by the people of the several States, "in order to form a more
4 perfect union, *establish justice*, ensure domestic tranquility,
5 provide for the common defence, *promote the general welfare*,
6 and secure the blessings of liberty," to all the parties, and that
7 whenever its provisions are so perverted or enlarged, that it
8 fails to secure these objects to the weakest member of the con-
9 federacy, it ceases to be the Constitution agreed to, and be-
10 comes the creature of the whim and caprice of a dominant
11 majority, alien in interest to the oppressed, the most dangerous
12 and intolerant of all Governments.

II. *Resolved*. That although we love the union of the States,
2 and view its destruction as a great calamity, we nevertheless
3 regard the right to secede from it as a right of self-defence and
4 protection, which the people of North Carolina have never sur-
5 rendered, and never can surrender, with due regard to their own
6 safety and welfare; and that whenever a majority of the people
7 of North Carolina shall solemnly resolve that they cannot safe-
8 ly remain in the Union, it is not only their right, but it is their
9 duty to secede, and to punish such of her citizens as refuse sub-
10 mission to her will as rebels and traitors.

III. *Resolved*. That whilst we claim the right of secession, as a
2 right reserved to the people, and not surrendered by the Consti-
3 tution, we believe it to be an extreme remedy and one that
4 should not be resorted to, unless all means to preserve the U-

5 nion and to protect the property and insure the welfare of the
6 people have manifestly failed.

IV. *Resolved*, That the fugitive slave bill lately passed by Con-
2 gress is in conformity with the provisions of the Constitution, &
3 that its repeal, or any alteration tending to impede an owner of
4 a slave from retaking his property, will be regarded as undoubted
5 and sufficient evidence, that a majority of Congress are unre-
6 strained by the express provisions of the Constitution, and that
7 a time has arrived, when it becomes the duty of the people of
8 North Carolina to decide whether they will submit to an un-
9 limited Government, or will resist its encroachments boldly
10 and effectively.

V. *Resolved*. That property in slaves being recognised both by the
2 Constitutions of North Carolina and of the United States, it is
3 as much the duty of the General Government to protect and de-
4 fend slave property, as it is its duty to protect and defend any
5 other species of property, and that any action of the General
6 Government preventing the emigration of slave property to any
7 Territory of the Union, is an assault upon such property tend-
8 ing ultimately to destroy it, by the slow but sure process of
9 circumscribing it, and preventing its removal to countries bet-
10 ter adapted to its profitable occupation, than where it now is
11 found.

VI. *Resolved*, That the injustice done to the slave-holding
2 States, by the late admission of California into the Union,
3 would never have occurred, had the South been united: We
4 therefore invite the co-operation of the slave-holding States in
5 demanding from the General Government an adequate protec-
6 tion for such slave property as may emigrate to any territory
7 belonging to the United States; or should it be deemed more ad-
8 visable, an equal division of such territory between the slave-
9 holding and the non-slave-holding States of the Union.

VIII. *Resolved*, That the Governor be requested to transmit
2 a copy of these resolutions to the Governors of the other
3 States of the Union. with a request that they be laid before
4 their several Legislatures.

A BILL

TO

INCORPORATE THE

FAYETTEVILLE AND SOUTHERN

PLANK ROAD COMPANY.

[Introduced by Mr. T. N. CAMERON. Referred to Committee on Internal Improvements, and ordered to be printed.]

R A L E I G H :

Thos. J. Lemay, Printer to the State.

1850.

A BILL

To incorporate the Fayetteville and Southern Plank Road
Company.

I. *Be it enacted by the General Assembly of the State
2 of North Carolina, and it is hereby enacted by the authori-
3 ty of the same,* That Alfred A. McKethan, John H. Cook,
4 David A. Ray, Charles Benbow, Gurdon Denning, A. A. T.
5 Smith, -H. Lilly, E. J. Hale, John R. McIntosh, Daniel
6 McNeill and Archibald S. McKay, together with such per-
7 sons as now are or may hereafter be associated with them,
8 their successors or assigns, be, and they are hereby creat-
9 ed a corporation and body politic, by the name and style
10 of the "Fayetteville and Southern Plank Road Company;"
11 and by that name and style may acquire, hold, possess
12 and transfer, such real, personal and mixed estates, so far
13 as may be necessary for the purpose of constructing the
14 Road herein authorized to be made, or of managing the
15 affairs of said Company. and shall have perpetual suc-
16 cession and a common seal, which they shall have pow-
17 er to alter and renew at pleasure; and shall have and en-
18 joy. and may exercise all the powers, rights and privi-
19 leges which other corporate bodies may lawfully do, for
20 the purposes mentioned in this act; and may make all such
21 bye-laws, rules and regulations, not inconsistent with the
22 laws of this State or of the United States, as shall be ne-
23 cessary for the well ordering and conducting of the affairs
24 of the company; and by said name may sue and be sued,
25 plead and be impleaded, in any of the courts of this State.

II. *Be it further enacted,* That the capital of said
2 company shall not exceed the sum of twenty-five thousand
3 dollars, in shares of fifty dollars each: The payment or

4 securing of the stock of said company to be made under
 5 such rules and regulations as may be prescribed by the
 6 board of directors hereinafter provided for. The said
 7 company shall have power to construct a plank road from
 8 the town of Fayetteville to or near Lumber Bridge church,
 9 in the county of Robeson; starting from Fayetteville, by
 10 the way of Gillespie and Winslow streets, uniting at a-
 11 bout three-fourths to one and a half miles from said town,
 12 equi-distant between those two streets; thence, crossing
 13 Little Rockfish about midway between Rockfish and Bea-
 14 ver Creek Factories: thence to, and crossing Big Rockfish
 15 at or near Arch'd Black's Bridge; thence to or near Lum-
 16 ber Bridge Church, in the county of Robeson.

III. *Be it further enacted*, That a general meeting of
 2 the stockholders of said company shall be called at such
 3 time and place as may be deemed convenient for the
 4 same, by giving public notice in one or more of the pa-
 5 pers published in the town of Fayetteville; giving at least
 6 ten days' notice of the time and place of such meeting;
 7 that to constitute any such meeting, a number of shares
 8 entitled to a majority of votes, which could be given
 9 upon all the shares subscribed, shall be present either in
 10 person or by proxy; and if a sufficient number to consti-
 11 tute a meeting do not attend on that day, those who do at-
 12 tend shall have the power to adjourn, from time to time,
 13 until a meeting shall be formed.

IV. *Be it further enacted*, That the subscribers to the
 2 stock of said company, at their meeting herein before di-
 3 rected to be called, and the proprietors of stock, at every
 4 annual meeting thereafter, shall elect nine directors; and
 5 the directors, when appointed, shall choose one of their
 6 number President, who shall continue in office (unless
 7 sooner removed) until the next annual meeting after their
 8 election, and until their successors shall be elected. But
 9 the said directors, or any of them, may at any time be re-
 10 moved, and the vacancy thereby occasioned be filled by a
 11 majority of the votes given at any general meeting. The

12 president, with any three or more directors, (or in the e-
 13 vent of sickness, absence or disability of the president,) a-
 14 ny four or more of the directors, who may appoint one of
 15 their number president *pro tem.*, shall constitute a board
 16 for the transaction of business. In cases of vacancy in
 17 the board of directors, happening from death, resignation,
 18 or otherwise, such vacancy may be supplied by the ap-
 19 pointment of the board until the next annual meeting.

V. *Be it further enacted,* That the board of directors
 2 of said company shall be, and they are hereby invested
 3 with all the rights and powers, necessary for the construc-
 4 tion and repairs of the Plank Road herein authorized to be
 5 made; and also to make, purchase and construct all such
 6 mills and other works as may be necessary, for the con-
 7 struction and well ordering of said road.

VI. *Be it further enacted,* That the said board of direct-
 2 ors shall have power to make contracts with any person or
 3 persons, on behalf of the company, for the construction of
 4 said road, and of performing all other things, respecting
 5 the same, which they shall judge necessary and proper,
 6 and to require from the stockholders, from time to time,
 7 such advances of money, on their respective shares, as
 8 the wants of the company may demand, until the whole
 9 of their subscription shall be paid; to call, on any emer-
 10 gency, a general meeting of the stockholders, giving at
 11 least twenty days notice thereof in one or more of the pa-
 12 pers printed in the town of Fayetteville; to appoint such
 13 officers as they may deem necessary, to transact the busi-
 14 ness of the company, taking from them, at their discre-
 15 tion, bond and security for the faithful discharge of their
 16 several duties and duly accounting for all monies coming
 17 into their hands; to appoint such superintendents, mana-
 18 gers and toll gatherers, as may be necessary; and general-
 19 ly to transact all the business of the company between the
 20 general meetings of the stockholders.

VII. *Be it further enacted,* That if any stockholder
 2 shall fail to pay the sum required of him by the board of

3 directors, it shall and may be lawful for said board of di-
 4 rectors to sell, at public auction, and to convey to the
 5 purchaser, the share or shares of such stockholder so
 6 failing or refusing, giving twenty days' previous notice of
 7 the time and place of sale, in manner aforesaid; and af-
 8 ter retaining the sum due, and all the charges of the sale,
 9 out of the proceeds thereof, to pay the surplus over to the
 10 former owner, or to his legal representatives; and if the
 11 said sale shall not produce the sum required to be advanc-
 12 ed, with all the incidental charges attending the sale,
 13 then the said board of directors may recover the balance
 14 of the original proprietor or his assignee, or of the execu-
 15 tor or administrator, or of either of them, by suit in any
 16 court of record having jurisdiction thereof, or by warrant
 17 before any Justice of the Peace of the county of which he,
 18 she or they are residents; and any purchaser of the stock
 19 of the company under a sale by order of the board of di-
 20 rectors, shall be subject to the same rules and regulations
 21 as the original proprietor.

VIII. *Be it further enacted*, That the said board of di-
 2 rectors, their officers or agents, may agree with the own-
 3 ers of any land over which the said road is intended to
 4 pass, for the purchase and transfer thereof; and in case of
 5 disagreement, or if the owners shall be *femme covert*,
 6 under age, *non compos mentis*, or out of the State, on ap-
 7 plication to any two Justices of the Peace, of the county
 8 where the lands lie, the Justices shall issue their warrant
 9 to the sheriff of said county to summon eighteen freehold-
 10 ers to meet on the land to be valued, on the day express-
 11 ed in said warrant, not less than ten nor more than twen-
 12 ty days thereafter; and the sheriff, on the receipt of the
 13 warrant, shall summon the freeholders accordingly, and
 14 when met, shall draw twelve of them, who, after being
 15 duly sworn, shall impartially value the land in question,
 16 and consider the damages, if any, the owner thereof may
 17 sustain; and the inquisition so taken, shall be signed by
 18 the jury and countersigned by the sheriff, and returned to

19 the Clerk of the County Court, to be recorded; and in
 20 all cases, the jury is hereby directed to describe the land
 21 valued, and such valuation shall be conclusive; and the
 22 said board of directors shall pay the sum to the owner of
 23 the land valued, or his legal representatives, and if neither
 24 can be found in this State, or if they refuse to receive the
 25 money, then to the clerk of the County Court; and on
 26 payment thereof, the said corporation shall be seized in fee
 27 of the land, as fully and absolutely as if it had been con-
 28 veyed to them by the owner.

IX. *Be it further enacted*, That said board of direct-
 2 ors, or their agents, may agree with the proprietor or pro-
 3 prietors, for any quantity of land they may deem neces-
 4 sary for their purposes, at or near each station or place
 5 intended for the collection of tolls, for the purpose of erect-
 6 ing the necessary buildings, gates, &c., intended for the
 7 purposes of the company; and in case of disagreement
 8 or of any disability as aforesaid, the same proceeding may
 9 be had, and the same conveyance shall follow, as are pre-
 10 scribed in the preceding section: *Provided*, that in cases
 11 of disagreement, not more than five acres of land shall be
 12 condemned to use of said company at any one station.

X. *Be it further enacted*, That it shall and may be
 2 lawful for the said board of directors, as soon as five
 3 miles are completed, to demand and receive, at conveni-
 4 ent toll gates, to be by them erected, a reasonable toll
 5 from all persons using said plank road; said road to be
 6 made not less than eight, nor more than sixty-six feet
 7 wide.

XI. *Be it further enacted*, That if any person or per-
 2 sons shall refuse to pay the toll at the time of offering to
 3 pass the place or places designated for the collection of
 4 tolls and previous to passing the same, the toll-gatherers
 5 respectively may refuse a passage to the person or persons
 6 refusing to pay; and if any person or persons forcibly or
 7 fraudulently pass any gate thereon, without having paid
 8 the legal toll, and any and every person or persons, who,

9 to avoid paying the legal toll, shall, with his team, car-
 10 riage or horse, turn out of said road, on ground adjacent
 11 thereto, and enter again upon such road, and any person
 12 or persons who shall use said road between the points de-
 13 signated for the collection of tolls, without paying the
 14 same, he, she or they shall pay a fine of *five dollars*, to
 15 be recovered by warrant before any justice of the peace in
 16 the county wherein such toll gate or point of collection
 17 shall be situated.

XII. *Be it further enacted*, That if any person or
 2 persons shall wilfully or maliciously injure, or in any
 3 manner hurt, damage or obstruct, or shall wilfully or
 4 maliciously cause or advise any other person or persons
 5 to injure, hurt or obstruct the said plank road, toll gate or
 6 toll houses, or any other property or effects of said company,
 7 such person or persons, so offending, shall be liable to be
 8 indicted therefor, and, on conviction, shall be fined or
 9 imprisoned at the discretion of the court before which
 10 said conviction shall take place, and shall further be lia-
 11 ble for damages that may be sustained on account of such
 12 injury.

XIII. *Be it further enacted*, That distinct accounts
 2 of the proceedings and disbursements of the board shall
 3 be made by them, to the annual meetings of the stock-
 4 holders.

XIV. *Be it further enacted*, That whenever, in the
 2 construction of said road, it may be necessary to cross or
 3 intersect any established road or way, it shall be the duty
 4 of the board of directors so to construct the said plank
 5 road across such established roads or ways, as not to im-
 6 pede the passage or transportation of persons or property
 7 along the same; and if, in the construction of said plank
 8 road, or of any toll gate or toll house, it may become
 9 necessary or expedient to use or change any portion of
 10 any established road or way, it may be lawful for the
 11 board of directors to change the said road or roads at
 12 points where they may deem it necessary or expedient to

13 do so; and for entering upon or taking any land therefor,
 14 they shall be and are hereby authorized to proceed under
 15 the provisions of this act, as in case of land necessary for
 16 the plank road: *Provided further*, that previous to any
 17 such change, the said company shall make and prepare a
 18 road equally good as the one proposed to be substituted;
 19 but nothing herein contained shall be so construed as to
 20 make it incumbent on said company to keep in repair the
 21 portion of road which they may have changed as afore-
 22 said.

XV. *And be it further enacted*, That this act shall be
 2 in force from and after the ratification thereof, and shall
 3 be regarded as a public act, and be continued in force for
 4 thirty years.

[7]

A BILL

TO

INCORPORATE THE

FAYETTEVILLE AND CENTRE

PLANK ROAD COMPANY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[sig. 5]

[Introduced by Mr. PEGRAM. Read 1st time, passed, ordered
to be printed and referred to Committee on Internal Improvement.]

A BILL,

To Incorporate the Fayetteville and Centre Plank Road
Company.

I. *Be it enacted by the General Assembly of the State*
2 *of North Carolina, and it is hereby enacted by the au-*
3 *thority of the same,* That it shall be lawful to open books
4 in the town of Fayetteville, under the direction of Henry
5 Lilly, Edward J. Hale, James G. Cook, Augustus W. Steel,
6 Henry L. Mynon, Beverly Rose and Col. Thomas Waddill;
7 at such places as may be deemed advisable, in the county
8 of Richmond, under the direction of John A. Dumas,
9 Thomas Little, Cen. Alfred Dockery, and R. S. McDonald,
10 or any two of them; in the county of Montgomery, under
11 the direction of James L. Gaines, Saml. H. Christian, S.
12 V. Simons, and R. Bowdon, or any two of them; in Stanly
13 county, under the direction of William S. Pemberton,
14 William Hall, Dr. M. T. Waddill and Eben Hearne, or
15 any two of them; in the county of Anson, under the di-
16 rection of Stephen W. Cole, Dr. C. C. Watkins, Col. W.
17 G. Smith and David Carpenter, or any two of them; and
18 at such other places, and under the direction of such oth-
19 er persons, as the Commissioners herein before named, to
20 superintend the receiving of subscriptions in the town of
21 Fayetteville, shall direct; for the purpose of receiving
22 subscriptions to an amount not exceeding one Hundred
23 and Twenty Five Thousand Dollars, in shares of Fifty
24 Dollars each for the purpose of effecting a communication
25 between the Town of Fayetteville and Centre, in the
26 county of Stanly, by means of a Plank Road; the route,
27 and points of effecting this communication to be de-
28 termined by the said company, after the same shall have
29 been formed.

II. *Be it further enacted*, That the times and places
 2 of receiving such subscriptions shall be advertised in one
 3 or more of the papers published and printed in the town
 4 of Fayetteville; and the Books for receiving the same
 5 shall not be closed within ten days after the opening.—
 6 And said commissioners shall have power to open books,
 7 from time to time, as they think proper, until the whole
 8 number of shares be subscribed.

III. *Be it further enacted*, That when the sum of
 2 Twenty Thousand Dollars shall be subscribed for, in
 3 manner aforesaid, the subscribers, their executors, Admin-
 4 istrators or assigns, shall be, and they are hereby declared
 5 to be, incorporated into a company by the name and style
 6 of, "*The Fayetteville and Centre Plank Road Com-*
 7 *pany;*" and by that name shall be capable in law of pur-
 8 chasing, holding, selling, leasing and conveying estates,
 9 real, personal and mixed, so far as may be necessary for:
 10 the purposes of said company, either in constructing or
 11 managing the affairs of said company; and shall have
 12 perpetual succession, and by said corporate name, may
 13 sue and be sued, and may have a common seal, which
 14 they shall have power to alter and renew at pleasure; and
 15 shall have and enjoy, and may exercise all the powers,
 16 rights and privileges which other corporate bodies may
 17 lawfully do, for the purposes mentioned in this act; and
 18 may make all such Bye Laws, rules and regulations, not
 19 inconsistent with the laws of this State or of the United
 20 States, as shall be necessary for the well ordering and con-
 21 ducting the affairs of said company.

IV. *Be it further enacted*, That upon any subscription
 2 of stock as aforesaid, there shall be paid at the time of
 3 subscribing to the said commissioners or their agents ap-
 4 pointed to receive such subscriptions, the sum of one dol-
 5 lar on every share subscribed, and the residue thereof
 6 shall be paid or secured in such manner, and at such time
 7 or times, as may be required by the Board of Directors
 8 of said company.

V. *Be it further enacted*, That the said commissioners, 2 or their agents, shall forthwith, after the first election of 3 a Board of directors of the company, pay over to said 4 directors all monies received by them; and on failure 5 thereof, the said directors may recover the amount due 6 from them by legal process, in the Court of Pleas and 7 Quarter Sessions, or in the Superior Court of Law, in any 8 county wherein such commissioner, or commissioners may 9 reside, or by warrant before any justice of the peace for 10 said county.

VI. *Be it further enacted*, That, when Twenty Thou- 2 sand Dollars shall have been subscribed, public notice of 3 that event shall be given by the said commissioners at 4 Fayetteville, who shall at the same time call a general 5 meeting of the stockholders, at such convenient place and 6 time as they shall name in said notice.

VII. *Be it further enacted*, That to constitute any 2 such meeting, a number of persons entitled to a majority 3 of all the votes, which could be given upon all the shares 4 subscribed, shall be present, either in person or by proxy; 5 and if a sufficient number to constitute a meeting, do not 6 attend on that day, those who attend shall have the pow- 7 er to adjourn, from time to time, until a meeting shall be 8 formed.

VIII. *Be it further enacted*, That the subscribers, at 2 their general meeting before directed and the proprietors 3 of stock at every annual meeting thereafter, shall elect 4 nine directors; and the directors, when appointed, shall 5 choose one of their number president, who shall continue 6 in office, unless sooner removed, until the next annual 7 meeting after their election, and until their successors shall 8 be elected; but the said directors, or any of them, may at 9 any time be removed, and the vacancy thereby occasioned 10 be filled by a majority of votes given at any general meet- 11 ing. The President, with any three or more directors, 12 or, in the event of sickness, absence or disability of the 13 President, any four or more of the directors may appoint

14 one of their number president *Pro Tem.* who shall consti-
 15 tute a Board for the transaction of business. In cases of
 16 vacancy in the Board of directors, happening from death,
 17 resignation, or otherwise, such vacancy may be supplied
 18 by the appointment of the Board until the next annual
 19 meeting.

IX. *Be it further enacted,* That the board of directors
 2 of said company shall be, and they are hereby invested,
 3 with all the rights and powers necessary for the construc-
 4 tion, repairs and maintaining of a plank road, to be lo-
 5 cated as aforesaid, with as many branches *diverging*
 6 *from the main stem* as they, or a majority of them, may
 7 deem necessary; and may cause to be made, and also to
 8 make and construct all works whatsoever, which may be
 9 necessary to the completion of said road and all its bran-
 10 ches.

X. *Be it further enacted,* That the said board of di-
 2 rectors shall have power to make contracts with any per-
 3 son or persons, on behalf of the company, for making the
 4 said plank road, together with any branches of the same,
 5 and performing all other things respecting the same, which
 6 they shall judge necessary and proper; and to require
 7 from the subscribers, from time to time, such advances of
 8 money, on their respective shares as the wants of the com-
 9 pany may demand, until the whole of their subscriptions
 10 shall be advanced; to call, on any emergency, a general
 11 meeting of the stockholders, giving one month's notice
 12 thereof, in one or more of the newspapers printed in the
 13 town of Fayetteville; to appoint such officers as they may
 14 deem necessary to transact the business of the company
 15 taking from them bond and security for the faithful dis-
 16 charge of their several duties and duly accounting for all
 17 monies coming into their hands; to appoint such superin-
 18 tendents, managers and toll gatherers, as may be neces-
 19 sary; and generally to transact all the business of the com-
 20 pany between the general meetings of the stockholders.

XI. *Be it further enacted,* That if any stockholder

2 shall fail to pay the sum required of him by the board of
 3 directors, or by a majority of them, within one month af-
 4 ter the time the same shall have been advertised in one or
 5 more of the newspapers published in the town of Fay-
 6 etteville, it shall and may be lawful for said board of di-
 7 rectors, or a majority of them, to sell at public auction,
 8 and to convey to the purchaser, the share or shares
 9 of such stockholder so failing or refusing, giving one
 10 months previous notice of the time and place of sale in
 11 manner aforesaid; and after retaining the sum due and all
 12 the charges of the sale, out of the proceeds thereof, to
 13 pay the surplus over to the former owner or to his legal
 14 representatives; and if the said sale shall not produce the
 15 sum required to be advanced, with all the incidental charg-
 16 es attending the sale, then the said board of directors
 17 may recover the balance of the original proprietor or his
 18 assignee or the executor or administrator, or of either of
 19 them, by suit in any court of record having jurisdiction
 20 thereof, or by warrant before any Justice of the Peace of
 21 the county of which he is a resident; and any purchaser of
 22 the stock of the company under a sale by order of the board
 23 of directors, shall be subject to the same rules and regula-
 24 tions as the original proprietors.

XII. *Be it further enacted*, That if the capital stock
 2 of the company hereby incorporated, shall be found in-
 3 sufficient for the purposes of this act, or if hereafter it
 4 may be deemed expedient, by a majority of stockholders
 5 in general meeting, to extend the main stem of said road
 6 to Concord, in the county of Cabarrus, or to some other
 7 point West of Centre, it shall and may be lawful for the
 8 board of directors of the said company, or a majority of
 9 them, to increase, from time to time, the capital stock to
 10 an amount not exceeding three hundred thousand dollars,
 11 by the addition of as many shares as they may deem ne-
 12 cessary, by opening books in the town of Fayetteville and
 13 such other places, and in such manner, as they may deem
 14 prudent and necessary; and the subscribers for such ad-

15 ditional shares of the capital stock of said company are
 16 hereby declared to be thenceforward incorporated into the
 17 said company, with all the privileges and advantages, and
 18 subject to all the liabilities of the original stockholders.

XIII. *Be it further enacted*, That the said board of di-
 2 rectors, their officers or agents, may agree with the own-
 3 ers of any land over which the said road, or any of its
 4 branches, is intended to pass, for the purchase thereof; and
 5 in case of disagreement, or if the owners shall be *femme*
 6 *covert*, under age, *non compos*, or out of the State, on ap-
 7 plication to any two Justices of the Peace, of the county
 8 where the lands lie, the Justices shall issue their warrant
 9 to the sheriff of said county to summon eighteen freehold-
 10 ers to meet on the land to be valued, on a day expressed
 11 in the said warrant, not less than ten nor more than twen-
 12 ty days thereafter; and the sheriff, on the receipt of the
 13 warrant, shall summon the freeholders accordingly, and
 14 when met, shall draw twelve of them, who, after being
 15 duly sworn, will impartially value the land in question,
 16 and consider the damages the owner thereof may
 17 sustain; and the inquisition so taken, shall be signed by
 18 the jury and countersigned by the sheriff, and returned to
 19 the Clerk of the County Court, to be recorded; and in
 20 all cases, the jury is hereby directed to describe the land
 21 valued, and such valuation shall be conclusive; and the
 22 said directors shall pay the sum to the owner of
 23 the land valued, or his legal representative, and if neither
 24 can be found in this State, or if they refuse to receive the
 25 money, then to the clerk of the County Court; and on
 26 payment thereof, the said corporation shall be seized in fee
 27 of the land, as fully and absolutely as if it had been con-
 28 veyed to them by the owner.

XIV. *Be it further enacted*, That said board of direct-
 2 ors, or their agents, may agree with the proprietor or pro-
 3 prietors, for any quantity of land they may deem neces-
 4 sary for their purposes, at or near each place or station
 5 intended for collection of tolls, for the purpose of erect-

6 ing the necessary buildings, gates, &c.,; and in case of
 7 disagreement or of any disability as aforesaid, or the own-
 8 er or owners being out of the State, the same proceedings
 9 may be had, and the same conveyance shall follow, as are
 10 described in the preceding section: *Provided*, that in cases
 11 of disagreement, not more than five acres of land shall be
 12 condemned to the use of said company at any one station.

XV. *Be it further enacted*, That it shall and may be
 2 lawful for the said board of directors, to demand and
 3 receive, at some convenient toll gates, to be by them e-
 4 rected, a reasonable toll from all persons using said plank
 5 road, or any of its branches.

XVI. *Be it further enacted*, That the road hereby au-
 2 thorised to be made, shall not be less than eight, nor more
 3 than sixty-six feet wide; and that as soon as five miles
 4 in extent shall have been constructed, it shall and may
 5 be lawful for the said board of directors to demand and
 6 collect such toll, from persons using said road, as may
 7 be by them determined, in accordance with the rates im-
 8 posed by the fifteenth section of this act, and in like pro-
 9 portion for a greater extent of road; and if any person or per-
 10 sons shall refuse to pay the toll at the time of offering to
 11 pass the place or places designated for the collection of
 12 tolls and previous to passing the same, the toll-gatherers
 13 respectively may refuse a passage to the person or persons
 14 refusing to pay; and if any person or persons shall
 15 pass or drive through, or pass or drive around said place,
 16 any wheel carriage or animal liable to toll, without pay-
 17 ing the same, he, or they shall be liable to pay a fine of *five*
 18 *dolls.*, which fine may be recovered by warrant before any
 19 justice of the peace of the county wherein such toll gate or
 20 point of collection is situated. And if any person or per-
 21 sons shall drive on or use any part of said road, between
 22 the points designated for the collection of tolls, without
 23 the paying the amount for which he or they may be lia-
 24 ble, it shall be held that he or they are fraudulently us-
 25 ing the same, and he, she or they shall be liable to pay a

26 fine of five dollars, which may be recovered by warrant,
27 as hereinbefore prescribed.

XVII. *Be it further enacted*, That if any person or
2 persons shall wilfully or maliciously injure, or in any
3 manner hurt, damage or obstruct, or shall wilfully or
4 maliciously cause, aid, assist, counsel or advise any other
5 person or persons to injure, hurt, damage or obstruct the
6 said plank road, toll gates or toll houses, or any of the pro-
7 perty or effects of said company, such person or persons, so
8 offending, shall be liable to be indicted therefor, and, on
9 conviction, shall be imprisoned or fined at the discre-
10 tion of the court before which said conviction shall take
11 place-

XVIII. *Be it further enacted*, That distinct accounts
2 of the proceedings and disbursements of the board shall
3 be made by them, to the annual meetings of the stock-
4 holders: *Provided*, that if a number of stockholders hold-
5 ing one-fourth in amount of the capital stock of said com-
6 pany, shall ask of the board, in writing, a call of a gene-
7 ral meeting of the stock-holders, such meeting shall be
8 called, and to such meeting the board shall make a re-
9 port similar in all respects to the one required to be
10 made at annual meetings.

XIX. *Be it further enacted*, That whenever, in the
2 construction of said road, it may be necessary to cross or
3 intersect any established road or way, it shall be the duty
4 of the board of directors so to construct the said plank
5 road across such established roads or ways, as not to im-
6 pede the passage or transportation of persons or property
7 along the same; and if, in the construction of said plank
8 road, or any of its branches, or of any toll gate or toll
9 house, it may become necessary or expedient to use or
10 change any portion of any established public road or
11 way, it may be lawful for said board of directors to
12 change the said roads at points where they may deem
13 it necessary or expedient to do so; and that for entering
14 upon or taking any land necessary therefor, they shall

15 be and are hereby authorized to proceed under the
 16 provisions of this act, as in case of land necessary for the
 17 plank road: *Provided further*, that previous to making a
 18 ny such change, the said company shall make and prepare
 19 a road equally good with the road proposed to be substitut-
 20 ed; but nothing herein contained shall be so construed as to
 21 make it incumbent on said company to keep in repair the
 22 portion of any road which they may have changed as
 23 aforesaid.

XX. *And be it further enacted*, That this act shall be
 2 in force from and after the ratification thereof, and shall
 3 be regarded as a public act, and be continued in force for
 4 thirty years.

RESOLUTION.

]Introduced by Mr. MIZELL, Read 1st time, and, on motion of Mr. Mizell, ordered to be printed and laid on the table.]



I. *Resolved*, That the 2nd clause of the 3rd section of the 1st
2 Article of the amended Constitution, ratified by the people on
3 the 1st Monday of Nov., 1835, shall be specifically so amend-
4 ed as prescribed in the 2d clause of the 1st section of the 4th
5 Article of said amended Constitution, that all free white men
6 of the age of twenty-one years, who have been inhabitants of
7 any one district within the State twelve months immediately
8 preceding the day of any election, and shall have paid public
9 taxes, shall be entitled to vote for a member of the Senate for
10 the district in which he resides.

A B I L L

TO

AMEND THE CHARTER

OF THE

Pancy & McDowell Turnpike Company.



RALEIGH:

T. J. Lemay, Printer to the State.
1850.

[Introduced by Mr. FLEMMING. Read 1st time, and, on motion of Mr. Flemming, referred to the Committee on Internal Improvements, and ordered to be printed.]

A BILL

To amend an act, passed at the session of the Legislature of 1848 and 1849, entitled an act to incorporate the McDowell and Yancy Turnpike Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That* Wm. Murphy, Wm. L. Gill, James H. Greenlee, Milton P. Penland, Wm. Dixon, Dr. J. T. Erwin and Thos. Boker, Esq., be, and they are hereby appointed Commissioners, for the purpose of procuring gratuitous subscriptions to the amount of three thousand dollars, which, together with the sum of three thousand dollars to be raised as hereinafter directed, shall constitute the capital stock of the company hereby incorporated; and it shall be the duty of said Commissioners to open Books at Marion and Burnsville, and such other places as a majority of them may think proper, on or before the first day of June next, after giving public notice at least twenty days before, of the time and place appointed; and said Commissioners shall open Books from time to time as they may think proper, until the whole amount of said stock is subscribed.

II. *Be it further enacted, That* should the above amount of three thousand dollars not be secured by private subscription, on or before the first day of October next, then, and in that case, the County Courts of McDowell and Yancy counties be authorized and empowered to raise such amount of deficiency, by an assessment in the manner usual for other county purposes, in the proportion of one third for the county of McDowell, and the two thirds of said amount for the county of Yancy, to be col-

10 lected and paid over to said commissioners by the sheriffs
11 of the respective counties.

III. *Be it further enacted*, That whenever said amount of three thousand dollars is subscribed and secured, to said board by private subscription, or the assessment of tax actually collected and paid over to said commissioners, then it shall and may be lawful for the Internal Improvement Board, and they are hereby directed and empowered to pay over to said commissioners, under the direction of the Governor, three thousand dollars, the Governor being empowered to appoint a director on the part of the State, who, together with the commissioners, shall constitute a board of Directors for the survey, location and construction of said road.

IV. *Be it further enacted*, That said commissioners, or a majority of them, shall appoint a President and two Directors, one of whom shall be appointed Treasurer, who, in connexion with the agent of the State, shall constitute a body corporate, to be known by the name and style of the McDowell and Yancy Turnpike Company, and by that name sue and be sued, plead and be impleaded, in any court of record within this State; and shall have a common seal, and shall possess and enjoy all the rights and privileges necessary to carry into full effect the objects of this corporation.

V. *Be it further enacted*, That when any vacancy shall occur in said board of directors, it shall be the duty of the County Courts of the counties of McDowell and Yancy respectively to fill such vacancy, the court of McDowell controlling one, and the court of Yancy two of said appointments; and, upon the failure of either of said courts to fill such vacancy, at the first term after it shall occur, then the board shall be authorized to fill such vacancy by a majority of its own members.

VI. *Be it further enacted*, That in the gratuitous or voluntary subscription for the construction of said road, the subscribers shall be permitted, under the direction of

4 the corporation, to discharge such subscription in work, or
5 under contract upon the same, upon such terms as they
6 or a majority of them may direct.

VII. *Be it further enacted*, That upon the comple-
2 tion of said road of a suitable width' (say sixteen feet
3 clear of obstructions, except when side cutting may be
4 necessary, in which case it shall be at least fourteen feet
5 wide, and upon a grade of not more than one foot perpen-
6 dicular, to sixteen feet horizontal,) then it shall and may
7 be lawful for said directors to erect toll gates at suitable
8 distances, and demand and receive the following tolls,
9 (viz:) For man and horse ten cents, for loose horses and
10 mules five cents each, for cattle three cents, and for sheep
11 and hogs one cent each per head; for a six horse wagon
12 seventy-five cents, for a four horse wagon fifty cents, for a
13 wagon drawn by two or three horses twenty-five cents each,
14 for carts twelve and a half cents each, for four wheeled
15 pleasure carriages forty cents, and for buggies, sulkies,
16 barouches or gigs, twenty cents each.

VIII. *Be it further enacted*, That the proceeds or tolls
2 first collected from said road, after defraying the neces-
3 sary expense of collection, and such repairs as the re-
4 quirements of this act may demand to keep the road in
5 good order, shall first be applied, to reimburse the State,
6 the principal of her stock advanced, together with three
7 per cent. interest on said amount, from the completion of
8 the road and erection of gates, until the whole is refunded.

IX. *Be it further enacted*, That whenever it shall ap-
2 pear that the State has been entirely reimbursed for her
3 advancement and interest, agreeable to the foregoing sec-
4 tion, then the proceeds to be applied under the direction
5 of the corporation, to reinstate the treasury of the respec-
6 tive counties of Yancy and McDowell; payments to be
7 made to the respective Treasurers, (*pro rata*), upon their
8 advancements, until the whole may be discharged; but
9 neither county to be allowed interest for the use of said
10 funds.

X. *Be it further enacted*, That so soon as the State
 2 shall have received the full amount of her stock, together
 3 with the interest as by this act directed, and the respec-
 4 tive Treasurers of the counties of McDowell and Yancy,
 5 the amount of their advancements, without interest, then
 6 it shall be the duty of said board of directors, and they
 7 are hereby required, to declare the corporation dissolved,
 8 and throw said gates open to the full and free enjoyment
 9 of the community.

XI. *Be it further enacted*, That all persons who, by
 2 the laws of this State are bound to work on the public,
 3 high ways, and may live within the bounds of this State
 4 and within two miles of said road, shall be compelled to
 5 work three days in each and every year upon said road,
 6 under the direction of the corporation; in consequence
 7 of which work, the citizens of such county shall be per-
 8 mitted to pass, free of toll, upon said road.

XII. *Be it further enacted*, That for the voluntary
 2 neglect or refusal to remove all obstructions to the free
 3 passage of this road, or to keep the same in good order
 4 for the space of thirty days at any one time, the Presi-
 5 dent and Directors shall be subject to indictment in the
 6 Superior Court of the county, where such voluntary ne-
 7 glect or refusal may occur, and also to a civil action for
 8 damages by any person or persons aggrieved.

XIII. *Be it further enacted*, That any person at-
 2 tempting to evade the provisions of the seventh section of
 3 this act, by avoiding said gates, or by the opening of ways
 4 around to avoid the toll, or in any manner assisting to
 5 defeat the purpose of the same, shall be liable to indict-
 6 ment, and, upon conviction, be fined at the discretion of
 7 the court, not less than five, nor more than fifty dollars.

[SENATE DOC. 10.]

A BILL

PROVIDING FOR

AN AMENDMENT

TO THE

CONSTITUTION OF THE STATE.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. BERRY. Laid on table, and ordered to be printed.]

A BILL.

Providing for an amendment of the Constitution of the State
of North Carolina.

WHEREAS, the landed qualifications now required in this State, for voters for members of the Senate, does conflict with the fundamental principles of liberty, and creates unjust discriminations among the freemen thereof: Therefore,

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority, of the same,* (three fifths of the members of each house concurring,) That the second clause of the third section of the first article of the amendid Constitution of this State, ratified by the people on the second Monday in November, A. D. 1835, be amended and altered by striking out all after the words "*any election,*" in the fourth line, and before the words "*shall be intitled,*" in the sixth line thereof, so as to read as follows: all freemen of the age of twenty one years (except as herinafter declared:) who have been inhabitants of any one district within the State twelve months immediately preceding the day of any election, shall be entitled to vote for a member of the Senate, and no part of the seventh section of the Constitution of the State, formed by the Congress assembled at Halifax the eighteenth day of December in the year of our Lord one thousand seven hundred and seventy six, shall be in force so as to operate against and repugnant to the amendments herein set forth.

II. *Be it further enacted,* That the Governor of the State be, and he is hereby directed to issue his proclamation to the people of North Carolina, at least six months before the next election of members to the General As-

5 ssembly, setting forth the object of this bill, and in precise
 6 language the amendments to the Constitution herein pro-
 7 posed; which proclamation shall be accompanied by a true
 8 and perfect copy of this bill, certified by the secretary of
 9 the State, and both the proclamation and copy of the bill
 10 shall be published in all the newspapers in this State at
 11 least six months before the next election of members to
 12 the General Assembly, and for the same length of time
 13 shall be posted at the court house of the respective coun-
 14 ties of this State.

[Introduced by Mr. GORDON. Read 1st time and ordered to be printed.]

A BILL

To amend an act, passed at the session of 1840-'41, entitled an act for the establishment and better regulations of Common Schools.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of the 1st section of the above named act, as provides for the net annual income of the Literary fund (exclusive of monies arising from the sales of swamp Lands) to be distributed among the several Counties in this State in ratio of their Federal population, is hereby repealed; and that the net annual income of said literary fund, hereafter, shall be distributed among the several counties of this State according to their white population, to be ascertained by the census next preceeding such distribution; any thing contained in the above named act to the contrary notwithstanding.

[Introduced by Mr. STEVENSON. Read first time and passed, and, on Mr. Stevenson's motion, laid on the table, and ordered to be printed.]



A BILL

To extend the right of appeal.

1st. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That all judgments against two or more defendants, in the Courts of Law of this State, shall be joint and several; and when two or more persons are defendants in any action at law before a Justice of the Peace, or in the County or Superior courts of this State, either one or more of said parties defendants may appeal from the judgment rendered in said action, under the rules of law which now govern appeals in other cases: *Provided;* That said appeal shall not vacate the judgment against those defendants who refuse or fail to join therein, and execution may issue against said defendants who so refuse or fail to join in said appeal; and any satisfaction had on said execution shall be a payment or discharge of so much of the claim or cause of action against the defendants appealing, which they may plead at any time before final judgment, so that said payment or discharge shall not affect the costs of said appeal.

A BILL

CONCERNING

THE

WILMINGTON AND MANCHESTER

RAIL ROAD COMPANY.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[House Doc. No. 13]

A BILL

(FOR ENACTING)

THE

[Introduced by Mr. NIXON. Read first time and referred to the committee on Internal Improvement and ordered to be printed.]

RAIL ROAD COMPANY.

RAILROAD

T. J. LANEY, Printer to the State.

1830.

A BILL

Concerning the Wilmington and Manchester Rail Road
Company.

I *Be it enacted by the General Assembly of the State*
2 *of North Carolina, and it is hereby enacted by the au-*
3 *thority of the same,* That it shall and may be lawful for
4 the Wilmington and Manchester Rail Road Company to
5 execute their bonds, payable to the Public Treasurer of
6 the State of North Carolina, for the sum of Three Hun-
7 dred Thousand Dollars, which bonds shall be signed by
8 the President of the said Company, under the seal of the
9 same, and be expressed for sums not less than One Thou-
10 sand Dollars each, bearing interest at the rate of six per
11 cent. per annum, payable on the first Mondays in Janua-
12 ry and July respectively, in each and every year; fifty
13 thousand dollars of which bonds shall be made payable
14 on the first day of January, in the year one thousand
15 eight hundred and sixty-five; fifty thousand on the first
16 day of January, one thousand eight hundred and sixty
17 seven; fifty thousand on the first day of January, one
18 thousand eight hundred and sixty nine; fifty thousand on
19 the first day of January, one thousand eight hundred
20 and seventy one; fifty thousand on the first day of Jan-
21 uary, one thousand eight hundred and seventy three;
22 and fifty thousand on the first day of January, one thou-
23 sand eight hundred seventy five.

II. *Be it further enacted,* That the Treasurer of the
2 State be, and he is hereby authorized and directed to en-
3 dorse on said bonds as follows: "Pay to——— or order;"
4 and this endorsement shall pledge the faith of the State
5 of North Carolina for the payment of the said bonds ac-
6 cording to their tenor: which endorsement shall be signed

7 by the Treasurer in his official capacity, and countersign-
 8 ed by the Comptroller. The Treasurer, after endorsing
 9 the bonds as aforesaid, shall duly number and register
 10 them at large, in a book prepared for that purpose, which
 11 book shall be safely kept in his office.

III. *Be it further enacted*, That for the redemption of
 2 the bonds hereby authorized to be made, and the pay-
 3 ment semi-annually of the interest on the same, at the
 4 rate of six per cent per annum, the faith and credit of the
 5 State is hereby pledged to the holders of said bonds ; and
 6 on failure of the said Company to pay the said princi-
 7 pal and interest, or any part thereof, as the same shall be-
 8 come due, the Treasurer is hereby authorized to pay the
 9 same out of any money in the Treasury at the time.

IV. *Be it farther enacted*, That the said bonds shall
 2 be transferable by the holders thereof, or by his, her or
 3 their attorney, in a book to be kept by the Treasurer for
 4 that purpose; and on every such transfer, the outstand-
 5 ing bonds shall be surrendered to the Treasurer, and new
 6 bonds for the same amounts issued to the persons entitled
 7 to the same.

V. And whereas, by an act of the General Assembly
 2 of this State, ratified the 27th January, 1849, entitled
 3 "An Act concerning the Wilmington and Raleigh Rail
 4 Road Company", the faith and credit of the State is
 5 pledged for the redemption of the bonds of said Wilming-
 6 ton and Raleigh Rail Road Company, amounting to the
 7 sum of two hundred and fifty thousand dollars, and for
 8 the payment semi annually of the interest thereon ; and
 9 in order to indemnify the State for her said liability,
 10 the said Wilmington and Raleigh Rail Road Company
 11 was required to execute a mortgage of its property,
 12 which said mortgage, by the said act, is postponed, and
 13 not available until a certain debt, amounting to the sum
 14 of five hundred and twenty thousand dollars, secured by a
 15 mortgage of the property and effects of said Company,

16 is fully paid and satisfied : and whereas a further indem-
 17 nity to the State for her said liability for the Wilming-
 18 ton and Raleigh Rail Road Company is desirable:

Now therefore be it further enacted, That whenever the
 2 Wilmington and Manchester Rail Road Company shall
 3 duly execute and deliver to the Governor of this State
 4 a mortgage of all and singular its real and personal pro-
 5 perty and effects, conditioned to indemnify and save harm-
 6 less the said State from the payment of the whole or any
 7 part of the bonds hereby authorized to be made by the
 8 the said Wilmington and Manchester Rail Road Company
 9 and endorsed by the Treasurer; and pledging so much
 10 of the profits of said Company as may be sufficient to pay
 11 semi-annually the interest on said bonds; and conditioned
 12 further to indemnify the said State against any and all
 13 loss by reason of its liability on the aforesaid bonds of the
 14 Wilmington and Raleigh Rail Road Company; which
 15 said deed of mortgage and pledge shall be approved
 16 by the Governor and Attorney General of the
 17 State; then it shall be the duty of the Treasurer, and
 18 he is hereby directed and required, to deliver to the said
 19 Wilmington and Manchester Rail Road Company, to be
 20 negotiated, the bonds which by this act he is authoriz-
 21 ed to endorse.

VI. *Be it further enacted,* That in case of failure, on
 2 the part of the Wilmington and Manchester Rail Road
 3 Company, faithfully to pay semi-annually the interest on
 4 the bonds hereby authorized to be made, it shall be law-
 5 ful for the Governor for the time being to apply in behalf
 6 of the State to the proper courts in this State and in
 7 South Carolina, for a sequestration of the receipts for
 8 transportation on said Road, and to appoint receivers of
 9 said receipts, whose duty it shall be to apply so much
 10 thereof as may be sufficient to the payment of the inter-
 11 est semi-annually on said bonds, and to pay the excess to
 12 the said Company.

VII. *Be it further enacted,* That in case of failure, on
 2 the part of the said Wilmington and Manchester Rail
 3 Road Company, to pay the interest on said bonds, and re-
 4 deem the principal thereof, as the said interest and prin-
 5 cipal, or any part thereof, shall become due, then it shall
 6 be the duty of the Governor for the time being to cause

7 the mortgage or mortgages, which may be executed in
 8 pursuance of this act, to be foreclosed in the proper courts
 9 of this State and of South Carolina, and the real and other
 10 property thereby conveyed to be sold for the payment of
 11 the said bonds, and the discharge of the State from all of
 12 its liabilities for the said Company.

[Introduced by Mr. BYNUM. Referred to Committee on Slavery, and ordered to be printed.]

A BILL

TO PROTECT THE LABOR AND INDUSTRY OF NORTH CAROLINA.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a tax in the manner herein after mentioned, shall be raised and paid into the Public Treasury of this State, and for the use and service thereof; that is to say, upon all sums of money expended and debts incurred from and after the 4th day of July, one thousand eight hundred and fifty one, in any non-slave holding State, ten per cent; this tax to be returned on oath to the Justice appointed to take the list of taxables and taxable property, to be recovered, collected, and accounted for by the Sheriffs of the several counties, in like manner as they have been authorized and required by law heretofore to do, in collecting and accounting for the other State taxes.

II. *Be it further enacted,* That it shall be the duty of the Justices appointed to take the lists of taxable property, to list the taxes herein required to be listed, in a separate column, headed, "tax on foreign expenditures;" and the clerks of the several county courts shall record, advertise, and return the same to the Comptroller's office in the same manner, and in case of failure, under the same penalties, forfeitures and liabilities, as are now prescribed by law in relation to all other taxables.

III. *Be it further enacted,* That each and every person liable to pay taxes by and under the provisions of this

3 act, who shall fail to list the same on oath, shall, in ad-
 4 dition to the payment of a double tax, forfeit and pay
 5 into the Public Treasury the sum of two hundred dol-
 6 lars for each year's failure ; and it shall be the duty of
 7 the several Sheriffs in their respective counties, to levy,
 8 collect and account for the same as in cases of double tax,
 9 unless the county court shall within nine months there-
 10 after, on satisfactory cause shewn to them, by such delin-
 11 quent, order said forfeiture to be released and remitted.

IV. *Be it further enacted*, 'That each and every per-
 2 son shall annually render to the Justice appointed to
 3 take the list of taxable property, in addition to the tax
 4 he is liable to pay under this act in his own right, the a-
 5 mount he is liable for as guardian, attorney, agent, trus-
 6 tee, or in any other manner or character.

[Introduced by Mr. S. P. HILL. Read first time, passed, and ordered to be printed.]

A BILL
TO INCORPORATE THE MILTON SAVINGS BANK.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That John Wilson, Samuel Watkins, John T. Garland, John B. Barrett, James D. Newsom, Willie Jones, N. J. Palmer, Montfort McGehee, Caleb H. Richmond, George A. Smith, Samuel B. Holder, Charles K. Dodson, George W. Thompson, Martin P. Huntington, Edward P. Hawks, George W. Thompson, Dabney Terry and all and every other person becoming members of the Milton savings Bank, located in the county of Caswell, in the town of Milton, shall be, and are hereby created and made a corporation and body politic, by the name and style of "The Milton savings bank," and by that name shall have perpetual succession, and be capable by law to hold property, sue and be sued, plead and be impleaded, answer and defend and be answered and defended, in the Courts of Law and Equity or in any other place whatever; and to retrieve and make all deeds, transfers, and contracts, covenants, conveyances and grants whatsoever; and to make, have and use a common seal, and generally to do every other act or thing necessary to carry into effect the provisions of this act and to promote the design of said corporation.

II. *And be it further enacted,* That the said corporation shall annually on the second Monday in January, in the town of Milton, or at any other time or place, as by the Bye Laws and regulations hereafter to be adopted may be appointed, elect from the members of said corporation seven directors, to serve for the term of twelve months, or until others shall be chosen, who, during their term

8 of service, shall have the sole management and direction
 9 of the interests and concerns of said corporation: elect a
 10 president from their own body; and be authorized to
 11 make, from time to time, as they may deem expedient,
 12 such Bye Laws and other such rules for the regulation
 13 and the government of said corporation, and the same to
 14 change, add to or amend, as may be necessary and proper;
 15 *provided always*, that such rules and Bye Laws be not
 16 contrary to the Constitution and Laws of the United
 17 States or the State of North Carolina; *and provided also*,
 18 that said corporation shall not be authorised to make any
 19 bills or notes in nature or description of Banks Notes.

III. *And be it further enacted*, That said corporation
 2 shall be capable of receiving from any person or persons,
 3 any deposite or deposits of money, and that all moneys
 4 received or to be received shall be vested in public stocks
 5 or other securities, and such interest be allowed to the dep-
 6 ositors thereof, as may be, from time to time, directed or pro-
 9 vided for by the rules and Bye Laws of said corporation. The
 8 surplus profit may be divided every three years or oftener
 9 among the depositors, in such manner as the directors for
 10 the time being shall think proper, and no member shall
 11 be liable in his person or property for any debts, contracts
 12 or engagements of the said corporation, but the money,
 13 property, rights and credits of said corporation, and noth-
 14 ing more, shall be liable for the same.

IV. *And be it further enacted*, That on the loan of
 2 any money the board of directors, through their agent or
 3 cashier, may exact such interest in advance as is the cus-
 4 tom in the incorporated Banks of this State.

V. *And be it further enacted*, That the directors of
 2 said corporation, or a majority of them attending at any
 3 meeting of the board, may elect, by ballot or otherwise
 4 any person or persons as members of the Milton savings
 5 Bank; also elect a cashier and other such officers as may
 6 be deemed necessary, taking suitable bonds with security
 7 for the faithful discharge of his or their duties.

VI. *And be it further enacted,* That the board of directors shall have full power and authority to fill any vacancy that may occur between the times of the annual meetings of the members of the corporation.

VII. *And be it further enacted,* That this act shall be in force and effect from and after its passage.

[Introduced by Mr. GILMER. Ordered to be printed and referred to Joint Committee on Slavery.]

RESOLUTIONS ON SLAVERY.

I. *Resolved*, That the people of North Carolina cherish a deep attachment, and feel a loyal devotion to the Union of the States; and in the opinion of this General Assembly, will never give their consent to a dissolution of that Union, except in a case of extreme necessity, which has not yet occurred, and which our hopes and wishes for our country forbid us to think will occur.

II. *Resolved*, That in the series of measures adopted by the Congress of the United States, at their last session, for the settlement of the agitations growing out of the institution of Slavery, the General Assembly recognizes a compromise and adjustment of questions difficult and alarming in their character and tendency, and, as such, these measures have, in the opinion of the General Assembly, the approval, and will command the hearty support of the people of North Carolina.

III. *Resolved*, That while the people of this State approve, and will sustain, *as a whole*, this series of measures, yielding objections, which they may have to any particular of the series, they have a right to expect—do expect—and will insist upon a like support of the whole, and like yielding of objections to any particular measure, in those portions of the Union in which that is deemed objectionable, which, by the people of North Carolina, is regarded as important and valuable; and while North Carolina thus discharges, from patriotic love of the Union and the Constitution, and a solemn conviction of the inestima-

12 ble value to the whole country and to the world of our
 13 *constitutional* Union, her whole duty in the premises, she
 14 confides in the same patriotic and just sentiments influence
 15 ing the great body of the American people, for a like per-
 16 formance of their whole duty in every State and portion
 17 of the Union.

IV. *Resolved*, That the act passed at the last session
 2 of Congress, commonly called the fugitive slave law, is
 3 in exact accordance with the Constitution, just and fair in
 4 each and all its provisions, and entirely consistent with
 5 the usages of law in other cases of a like kind, and there-
 6 fore, is liable to no objection, which does not lie against the
 7 constitution itself; that to repeal it or materially alter its
 8 provisions, would be an act of injustice and bad faith, well
 9 calculated to alarm the whole of the slave holding States,
 10 to destroy their confidence in the honesty and fair purpo-
 11 ses of the people of the States concurring in such repeal
 12 or alteration, and produce such alienation and distrust as
 13 would render the further maintenance of the Union very
 14 difficult, if not utterly impossible.

V. *Resolved*, That the faithful execution of the fugi-
 2 tive slave law, in the free States, is necessary to the pre-
 3 servation of the Union, is a plain duty binding on the Gov-
 4 ernment and people of the United States, demanded by
 5 every consideration of justice and fair dealing, and can-
 6 not be denied or evaded without a manifest violation of a
 7 fundamental condition of our *Constitutional* Union, un-
 8 worthy the American character and not to be patiently
 9 borne by American freemen. But confiding in the justice
 10 and patriotism of the great body of the people of the free
 11 States, this General Assembly will not anticipate so sad and
 12 unwelcome an event as the repeal, essential modification,
 13 or non-execution of this law, and therefore declines *now*
 14 to declare what measures should, or would, in that event,
 15 be taken by the people of North Carolina, such a declara-
 16 tion being easily interpreted into a premature menace up-
 17 on a contingency, which may never happen, and likely to

18 aid in producing the very state of things to which it would
19 refer, and which all good and patriotic men sincerely de-
20 sire to prevent.

VI. *Resolved*, That in any event which may happen,
2 this General Assembly does not doubt that the people of
3 North Carolina will be found prepared to adopt, with cool-
4 ness and wisdom, and maintain with steady firmness and
5 perseverance, such measures as the emergency may re-
6 quire—first, to maintain their rights and honor, in the
7 Union, by constitutional means; and, secondly, when such
8 a course shall be demanded, by stern necessity, and only
9 then, to insure the preservation of these rights and that
10 honor, out of the Union, by such means, *beyond the Con-*
11 *stitution*, as the necessity of the case may require, their
12 wisdom may devise, and their strength enable to render
13 effectual.

VII. *Resolved*, That the Governor be requested to
2 transmit copies of these resolutions to the Governors of
3 the other States of the Union, and our Senators and Rep-
4 resentatives, with a request they be laid before Congress
5 and the Legislatures of the several States.



[Introduced by Mr. JOYNER. Ordered to be printed and referred to the Committee on SLAVERY]

Resolutions on Slavery.

1. *Resolved*, That the people of North Carolina have ever cherished a cordial and sincere attachment to the Constitution and to the Union of the United States; that they are deeply sensible of the many blessings and benefits resulting from this union, and are sensibly alive to the great and overwhelming calamities which its dissolution would bring upon the people of this country. It is, however, nevertheless true that the long continued wrongs and increasing aggressions made by the people of the North on the institution of slavery as established in the Southern States—an institution guaranteed by the Constitution of the United States, and over which they have not one particle of rightful control, are gradually weakening and undermining this attachment, and if persisted in, must inevitably lead to a severance of the ties which bind together the States of this Union.

II. *Resolved*, That the Acts of compromise and pacification, passed at the last session of Congress, for the admission of California, as a State, into the Union; for the government of the Territories of Utah and New Mexico; for establishing the boundary of Texas; for suppressing the slave trade in the District of Columbia; and for the recovery of fugitive slaves; though regarded by many

8 good and intelligent citizens as inadequate to the just
9 rights of the South; yet, as a whole, if faithfully observed
10 in all its parts, would meet the approval of the people of
11 North Carolina.

III. *Resolved*, That a repeal of the fugitive slave law,
2 passed at the last session of Congress, or any material
3 modification, rendering its provisions inoperative for the
4 great purpose designed, would be regarded as a wrong
5 and an outrage on Southern rights and property justify-
6 the most firm, united and determined resistance; and in
7 either of these events, North Carolina will unite with
8 her Southern sister States in a Convention to provide the
9 proper mode and manner of redress and determined re-
10 sistance to further encroachments on their rights.

IV. *Resolved*, That whatever differences of opinion may
2 exist, in regard to the right of one or more States to se-
3 cede from the Union, there can be no question as to the
4 natural right of every people, when the wrongs and op-
5 pressions of the Government become no longer bearable,
6 to resist and to overthrow such Government, and to es-
6 tablish other Government founded on principles better a-
7 dapted to secure the liberty and just rights of the people.
8 To this dread alternative the Southern people may un-
9 happily be driven by the wrongs and injustice of their
10 Northern brethren.

A BILL

TO INCORPORATE

THE

ASHEVILLE & GREENVILLE

RAIL ROAD COMPANY.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

A BILL

TO INCORPORATE

THE

[Introduced by Mr. Woodfin Read first time and referred to the committee on Internal Improvement and ordered to be printed.]

RAIL ROAD COMPANY

RAILROAD

T. J. Lemay, Printer to the Senate.

1850

A BILL

To incorporate the Asheville and Greenville Plank Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books, in the town of Asheville, under the direction of James M. Smith, James W. Patton, Montreville Patton, Dr. J. F. E. Hardy, Alfred B. Chunn, John Reynolds, John W. Woodfin, Isaac B. Sawyer, William Williams, James M. Edney, Dr. Morgan L. Neilson, William Rankin and Hugh Johnston; and in the town of Hendersonville, under the direction of David B. Miller, Valentine Ripley, John Baxter, Benjamin King, Joseph Dunlap, Henry T. Farmer, Allen Taber, Marcus M. Patton; and in the town of Greenville, South Carolina, under the direction of Perry Duncan, Dr. A. B. Crook, Vardry McBee, Erwin P. Jones, Wm. Choice, F. F. Beattie and David Hoke; and at such other places, and under the direction of such other persons, as the commissioners herein before named, or any three of them, may direct, for the purpose of receiving subscriptions of stock to an amount not exceeding two hundred thousand dollars, in shares of fifty dollars each, for the purpose of effecting a communication, by means of a plank road, from the town of Asheville, in N. Carolina, and Greenville, in the State of South Carolina; passing the town of Hendersonville, in N. Carolina, by the most practicable route to be determined by said company, after it shall have been formed.

II. *Be it further enacted,* That the times and places for receiving subscription for stock in said company shall

3 be advertised in one or more newspapers printed in the
 4 towns of Asheville and Greenville; and the Books shall
 5 not be closed in less than thirty days; and the said
 6 commissioners shall have power, or a majority of them,
 7 to open books, from time to time, until the whole num-
 8 ber of shares be subscribed.

III. *Be it further enacted*, That when the sum of
 2 Twenty Five Thousand Doll. shall have been subscribed
 3 in manner aforesaid, the subscribers, their executors, Ad-
 4 ministrators or assigns, shall be, and they are hereby de-
 5 clared to be, incorporated into a company by the name and
 6 style of "*the Asheville and Greenville Plank Road Com-*
 7 *pany*;" and by that name shall be capable in law of pur-
 8 chasing, holding, selling, leasing and conveying estates,
 9 real, personal and mixed, so far as shall be necessary for
 10 the purposes of said company, and shall have perpetual
 11 succession, and by said corporate name, may sue and be
 12 sued, and may have a common seal, which they shall
 13 have power to alter and renew at pleasure; and shall
 14 have and enjoy, and may exercise all the powers, rights
 15 and privileges that other corporate bodies may lawfully
 16 do, for the purposes mentioned in this act; and may make
 17 all such Bye Laws, rules and regulations, not inconsis-
 18 tent with the laws of this State or of the United States,
 19 as shall be necessary for the well ordering and conducting
 20 the affairs of said company.

IV. *Be it further enacted*, That upon any subscrip-
 2 tion of stock as aforesaid, there shall be paid at the time
 3 of subscribing to the said commissioners or their agents
 4 appointed to receive such subscriptions, the sum of one
 5 dollar on every share subscribed, and the residue thereof
 6 shall be paid in such instalments, and at such times
 7 as may be required by the President and Directors of
 8 said company.

V. *Be it further enacted*, That the said commissioners,
 2 or their agents, shall [forthwith] after the first election
 3 of President and Directors of the company, pay over to

4 the said President and Directors all moneys received by
 5 them; and on failure thereof, the said President and Di-
 6 rectors may recover the amount or amounts due from
 7 them or any one of them by suit in the corporate name of
 8 the company, before any court or Justice of the Peace,
 9 having jurisdiction of such amount.

VI. *Be it further enacted,* That when Twenty Five
 2 Thousand Dollars shall have been subscribed, public no-
 3 tice of that event shall be given by the said commission-
 4 ers at Asheville, who shall have power at the same time
 5 to call a general meeting of the stockholders at such time
 6 and place as they shall appoint.

VII. *Be it further enacted,* That to constitute any
 2 such meeting, a majority of all the shares subscribed
 3 shall be represented in person or by proxy; and if a suf-
 4 ficient number of subscribers do not attend on that day,
 5 those who attend may adjourn from time to time, until a
 6 majority of the stock is represented.

VIII. *Be it further enacted,* That the subscribers, at
 2 the general meeting before directed and the proprietors of
 3 stock at any annual meeting thereafter, shall elect a Pres-
 4 ident and nine directors, who shall continue in office,
 5 unless sooner removed, until the next annual meeting
 6 after their election, and until their successors are elected;
 7 but the said President and directors, or any of them, may
 8 at any time be removed and the vacancy thereby occa-
 9 sioned be filled by a majority of the votes given at any
 10 general meeting. The President, with any three or more
 11 of the directors, shall constitute a board to transact busi-
 12 ness, or, in the event of the sickness, absence or disability
 13 of the President, any five or more of the directors may
 14 appoint any one of their own body president *Pro Tem*.
 15 who, together with said directors, shall constitute a board
 16 to transact business. In cases of vacancy in the office
 17 of President or any director, happening by death, remov-
 18 al or otherwise, such vacancy shall be supplied by the
 19 appointment of the board until the next annual meeting.

IX. *Be it further enacted*, That the President and
 2 directors of said company shall be, and they are hereby
 3 invested, with all the rights and powers necessary for the
 4 construction, repairs and maintaining of a plank road, to
 5 be located as aforesaid, with as many branches diverging
 6 from the main stem as they, or a majority of them, may
 7 deem necessary, and may cause to be made all works
 8 whatsoever which may be necessary and expedient for
 9 the proper completion of said road and its branches.

X. *Be it further enacted*, That the said President
 2 and directors shall have power to make contracts with
 3 any person or persons, on behalf of the company, for mak-
 4 ing said plank road, together with any branches of the
 5 same, and performing all other things respecting the
 6 same, which they shall judge necessary and proper; and
 7 to require from the subscribers from time to time, such
 8 advances of money, on their respective shares, as the wants
 9 of the company may demand, until the whole of their
 10 subscription shall be paid in; to call, on any emergency,
 11 a general meeting of the stock holders, giving one months
 12 notice thereof, in any of the papers printed at Asheville or
 13 Greenville, to appoint a treasurer, from amongst the stock
 14 holders; who shall give bond and security for the
 15 faithful discharge of his duty, and duly accounting
 16 for all the money that may come into his hands as treas-
 17 urer; to appoint a clerk and such managers and toll gath-
 18 erers as they may deem necessary, and to transact all the
 19 business of the company, during the intervals between
 20 the general meetings of the stockholders.

XI. *Be it further enacted*. That if any stockholder
 2 shall fail to pay the sum required of him or her by the
 3 President and directors within one month of the time
 4 fixed by them, for the payment thereof, and of which call
 5 notice shall be given in one of the newspapers published
 6 in Asheville or Greenville, it shall and may be lawful for
 7 the President and directors to sue for and recover the
 8 same in any court, or if the sum be less than one hundred
 9 dollars, before any Justice of the Peace, or they may sell
 10 at public auction and convey to the purchaser, the share
 11 or shares of such delinquent subscriber, or his assignee,
 12 first giving one month's notice in one of the newspapers
 13 published in Asheville of such sale, and after retaining

14 the sum due, and all charges of the sale, out of the pro-
 15 ceeds thereof, to pay the surplus (if any) to the form-
 16 er owner, or his or her personal representatives; and if
 17 such sale shall not produce the sum due, and the ex-
 18 pense attending the sale thereof, the said company may
 19 recover the residue thereof by suit in any court or before
 20 any Justice of the Peace having jurisdiction thereof, a-
 21 gainst such subscriber or his assignee or the legal repre-
 22 sentative of either of them; and any purchaser of the
 23 stock at such sale or other purchaser of stock in said
 24 company, shall be subject to the same rules, liabilities and
 25 regulations as the original subscribers.

XII. *Be it further enacted*, That if the capital stock
 2 of the company hereby incorporated, shall be found in-
 3 sufficient for all the purposes of this act, it shall and
 4 may be lawful for the President and Directors of said
 5 company, or a majority of them, from time to time, to in-
 6 crease the capital stock to an amount not exceeding three
 7 hundred thousand dollars, by the addition of as many
 8 shares as they may deem necessary, first giving the indi-
 9 vidual stockholders for the time being or their legal re-
 10 presentatives, the option of taking such additional shares
 11 in proportion to the amount of stock respectively held by
 12 them; and if a sufficient amount should not be taken by
 13 the stockholders, it shall be lawful for said President and
 14 directors to have books opened at such time and places
 15 and under the direction of such person or persons, as they
 16 may appoint to receive subscriptions of stock to make up
 17 the remaining shares not taken by the stockholders as
 18 aforesaid, and may re-open books for that purpose from time
 19 to time, until the whole amount of the stock created by
 20 this section and their order or resolution shall have been
 21 subscribed; and the subscribers for such additional shares
 22 of the capital stock are hereby declared to be thencefor-
 23 ward incorporated into the said company, with all the
 24 privileges and advantages, and subject to all the liabilities
 25 of the original stockholders.

XIII. *Be it further enacted*, That it shall be compe-
 2 tent for said company, at any time within three years
 3 from the first organization, to determine whether they will
 4 extend the said Plank Road to the line of the State of Ten-
 5 nessee by such route as they may afterwards determine;
 6 and the entering of such resolution on their book and
 7 giving notice thereof, in any newspaper published at
 8 Asheville, shall be sufficient evidence of their determin-
 9 ation to do so, and shall vest in said company all the

10 rights, powers and privileges for making, keeping and
 11 using said road from Asheville to the Tennessee line as
 12 are herein given to and vested in them for making that
 13 portion South of Asheville.

XIV. *Be it further enacted*, That if the company
 2 hereby created shall only make that part of the road South
 3 of Asheville, and shall only require that portion of the
 4 Buncombe Turnpike Road for the use of the plank road,
 5 it shall be lawful for them to take and use that portion of
 6 it or any part or parts thereof, that may be found necessa-
 7 ry for their purposes; and the said Buncombe Turnpike
 8 company shall not be responsible for the repairs or keep-
 9 ing up of any part of said Road South of Asheville after
 10 the election of President and directors of the company
 11 hereby incorporated, but that the Plank Road company
 12 shall have charge thereof, after such organization, and
 13 shall keep it in repair until the plank road is made or such
 14 parts thereof as are not occupied by the plank road, so
 15 that the travel over said road shall not be impeded; and
 16 the plank road company may collect the same tolls there-
 17 on that are now levied and collected by the Buncombe
 18 Turnpike company, until they erect their first toll gate on
 19 the plank road as hereinafter provided for. And as a
 20 compensation to the said Buncombe Turnpike company,
 21 for the surrender of their right of way and franchise in
 22 that part of their road, which they agree to do, it shall
 23 be lawful for each stockholder to claim stock in the
 24 company hereby incorporated of equal value with his
 25 stock in that part of the Buncombe Turnpike road here-
 26 by surrendered, estimating the shares of fifty dollars in
 27 said company as now worth thirty dollars per share in
 28 the whole road, and that portion of the road South of
 29 Asheville as being equal to one third of the whole road,
 30 or ten dollars per share for that portion of said road South
 31 of Asheville; and a certificate of stock shall issue to
 32 each stockholder in the Buncombe Turnpike Company
 33 accordingly, without any charge on him; and if the
 34 number of shares so owned by any one or more of the
 35 stockholders in the Buncombe Turnpike road shall not
 36 entitle him or her to a full share in the plank road com-
 37 pany, then such stockholder shall pay the difference as
 38 other subscribers are required to pay, but shall be allow-
 39 ed the benefit of his stock in the Buncombe Turnpike
 40 road as so much cash paid in.

XV. *Be it further enacted*, That if the plank road
 2 company hereby incorporated, shall determine to extend
 3 the plank road North of Asheville to the Tennessee line,

4 then on such determination being made known as herein
 5 before required, they shall have the control and manage-
 6 ment of that part of said road North of Asheville; and
 7 the Buncombe Turnpike company shall not be further
 8 responsible for its repairs, but the plank road company
 9 shall succeed to all their rights and liabilities, and shall
 10 keep the road in condition for travel until the plank
 11 road is completed, or such part thereof as is not occupied
 12 with the plank road, and shall collect the same tolls there-
 13 on that the Buncombe Turnpike company now collect,
 14 until they erect their first gate on the plank road; and
 15 thereafter they shall only collect one half of the tolls now
 16 charged, until the second gate shall be erected on the
 17 plank road, when no further toll shall be collected on
 18 account of or under the charter to the Buncombe Turn-
 19 pike company; but all of its franchises under said char-
 20 ter shall cease, and in lieu of the stock so surrendered by
 21 the stockholders in said company, each stockholder shall
 22 be entitled to stock in the plank road equal to twenty dol-
 23 lars per share, for each share he or she owned in the said
 24 Buncombe Turnpike company; and if any stockholder
 25 shall not have the number of shares to entitle him to an
 26 entire share in the plank road company, he shall have
 27 the benefit of his stock as so much cash paid in, at the
 28 rate of twenty dollars for each share that he owned in
 29 said company, towards his stock subscribed in the plank
 30 road. And that on account of the State's stock of five
 31 thousand dollars in said Buncombe Turnpike company,
 32 stock to the amount of three thousand dollars shall be
 33 set apart for the State in said plank road, provided the
 34 entire road is claimed and used by the plank road; but
 35 if only that portion South of Asheville should be used,
 36 then the State shall have and own stock (without any
 37 payment on the shares) equal to that allowed on the
 38 shares of individuals for that part of the road, or ten dol-
 39 lars for each share owned by the State in the Buncombe
 40 Turnpike company.

XVI. *Be it further enacted*, That in case the plank
 2 road company should not elect to take that part of the
 3 Buncombe Turnpike road North of Asheville, on the
 4 terms herein provided, but shall take that part thereof
 5 South of Asheville, then the Buncombe Turnpike com-
 6 pany shall have the right to retain and keep up the same
 7 as heretofore under their charter, and to collect two thirds
 8 of the whole toll allowed by their charter for the whole
 9 road, and no more, and shall have the right to make any
 10 alteration or change therein that they may deem advisa-

ble; and if, in doing so, they shall pass over the lands of any one who will not consent thereto, on terms to be agreed on between them and such owner, then a jury of twelve freeholders shall be summoned by the Sheriff of the county of Buncombe, at the instance of either party, on ten days notice to him from the party desiring it, shall assess the damages done to such land; and upon the payment of the amount so assessed, or the tender of it, the title of such land shall vest in said company in fee for the purposes of said road; and if any one shall break through or pass around any gate of said company, to evade the tolls due said company, he shall be subject to a penalty of ten dollars for every such offence, to be recovered before any Justice of the Peace for said county, provided the road is in good repair at the time of such breaking through or going around such gate.

XVII. *Be it further enacted*, That provided the State of South Carolina shall grant a charter of like provisions with this act, then the said plank road company shall have corporate existence in this State and in South Carolina as one company, unless the stockholders in North Carolina shall prefer a separate existence and so determine at their first meeting; and in that event, or if the State of South Carolina fails at the present term of their Legislature to concur in this or a similar charter, then it shall be competent for the company hereby incorporated to make their road to such point, on the South Carolina line, as they shall determine.

XVIII. *Be it further enacted*, That the president and directors, their agents or officers, may agree with the owner or owners of any land over which the road may be intended to pass, or any of its branches, for the purchase thereof; and in case of disagreement, or if the owner shall be *femme covert*, infant, non compos mentis or out of the State, on application to any two Justices of the Peace, in the county where the lands are situated, the Justices shall issue their warrant to the sheriff of such county to summon eighteen freeholders to meet on the land to be valued, on a day to be expressed in said warrant, not less than ten nor more than twenty days thereafter; and the sheriff, on the receipt of the warrant, shall summon the freeholders accordingly, and when met, shall draw twelve of them, who, after being duly sworn, by the sheriff, (which he is hereby authorized to do) shall impartially value the land in question, and assess the damage the owner or owners thereof may sustain; and the inquisition

19 thus taken, shall be signed by the sheriff and jury, and
 20 returned to the Clerk of the County Court of the County,
 21 to be recorded; and any sheriff or juror who shall ne-
 22 glect or refuse to comply with this section, shall forfeit
 23 and pay to said company ten dollars, to be recovered, by
 24 warrant, before any justice of the peace, unless he can
 25 rendersome sufficient excuse for such failure; and the jury
 26 in all cases shall describe the land valued, and shall take
 27 into consideration the advantage to said land, as well as the
 28 injury in making the improvement; and such valuation
 29 shall be conclusive; and the President and directors shall
 30 pay the same to the owner of the land valued, or his legal
 31 representative on demand; and in case of failure therein,
 32 may be sued therefor before my justice of the peace, if
 33 the sum shall not exceed one hundred dollars, and no stay
 34 of execution shall be allowed; and if the sum exceed one
 35 hundred dollars, the same may be recovered in any court
 36 having jurisdiction of actions of debt. But if the owner
 37 or owners of such land cannot be found, or should refuse to
 38 receive the money, then the same shall be paid to the
 39 clerk of the County Court of said county for the use of
 40 such owner; and on payment thereof, the said corpora-
 41 tion shall be seized in fee of said land, as fully as if it had
 42 been conveyed to them by the owner or owners.

XIX. *Be it further enacted,* That the President and
 2 directors may agree with the proprietor or proprietors of
 3 any land at or near the station intended for collection of
 4 tolls, for the purpose of erecting the necessary buildings,
 5 gates, &c.; and in case of disagreement or of any disability
 6 as aforesaid, or absence from the State of the owner or
 7 owners, the same proceedings may be had, and the same
 8 conveyances shall follow, as are prescribed in the preced-
 8 ing section, but in that event not more than one acre of
 9 land shall be condemned and conveyed.

XX. *Be it further enacted,* That in all general and other
 2 meetings of the stockholders, the voting shall be regulat-
 3 ed by the number of shares, each share entitling the owner
 4 to one vote; provided, however, that no stockholder shall
 5 give more than fifty votes, unless the company, at any
 6 general meeting, shall determine, by a vote of a majority
 7 of all the stock subscribed, to change the scale of voting,
 8 but they shall have power by such vote to determine
 9 their own rule of voting.

XXI. *Be it further enacted,* That it shall and may be
 2 lawful for the said president and directors to demand and
 3 receive, at some convenient toll gates to be by them erect-

4 ed as they shall judge most advantageous, a reasonable
5 toll from all persons using said plank road, or any of its
6 branches; which tolls so to be collected on persons and
7 property passing on said road, shall be so regulated, that
8 the profits shall not exceed twenty per cent. on the capi-
9 tal stock in said company, in any one year, clear of ex-
10 penses and outlays; and provided, that no one shall be re-
11 quired to pay toll at any gate within four miles of his or
12 her residence.

XXII. Be it further enacted, That the said road here-
2 by directed to be made, shall not be less than eight feet,
3 with at least eight feet of earth road, adjoining and to be
4 used as part thereof, and that the whole road shall not
5 be more than thirty feet wide: And that as soon as ten
7 miles in extent shall have been constructed, it shall and
8 may be lawful for the president and directors of said
9 company to erect a toll gate, and collect such tolls, from
10 persons using said road, as may be determined by the
11 president and directors, in accordance with the provisions
12 of the 21st section of this act, and in like proportion for a
13 greater extent of said road; and if any person or persons
14 shall refuse to pay the toll at the time of offering to pass
15 the place or places designated for collecting the toll, and
16 previous to passing the same, the toll-gatherers respec-
17 tively may refuse a passage to the person or persons so
18 refusing to pay; and if any person or persons shall pass
19 or drive through or around such gate any wheeled car-
20 riage or animal liable to toll, without paying the same,
21 he or they shall be liable to a fine of five dollars for each
22 such offence, to be collected before any justice of the
23 peace, together with the tolls due, all in the name of, and
24 to the use of said company.

XXIII. Be it further enacted, That if any person or per-
2 sons shall wilfully or maliciously injure, or in any
3 manner hurt, damage or obstruct, or shall wilfully or mali-
4 ciously cause or aid, or counsel any other person to in-
5 jure, or obstruct the said plank road, toll gates or toll-
6 houses, such person or persons, so offending, shall be lia-
7 ble to be indicted therefor, and on conviction, shall be fin-
8 ed or imprisoned at the discretion of the court before
9 whom the conviction shall be had.

XXIV. Be it further enacted, That the President and
2 directors [shall report] full and clear accounts of their
3 proceedings and disbursements to the annual meeting of
4 the stockholders; and the president, with the concur-
5 rence of three of the directors, or, in the absence of the

6 president, a majority of all the directors, may call a meet-
7 ing of the stockholders at any time.

XXV. *Be it further enacted*, That whenever, in the con-
2 struction of said plank road, it shall become necessary to
3 cross or intersect any public road, it shall be the duty of
4 the President and directors so to construct said plank road
5 across such public and established road as not to impede
6 or obstruct the travel along such public road ; and if in
7 the construction of said plank road, it shall become ne-
8 cessary or expedient to use or occupy any portion of said
9 road, it shall be lawful for the President and directors to
10 change or alter such public road at such places where
11 they deem it necessary to do so ; and that for entering on
12 and taking any land that may be necessary therefor, they
13 shall be and are hereby authorized to proceed under the
14 provisions of this act as in cases of condemning land for
15 the use of the plank road ; and the said plank road com-
16 pany shall prepare another road equally good or as near-
17 ly so as practicable before they shall use or occupy any
18 public road, but shall not be bound to keep the same in
19 order.

XXVI. *Be it further enacted*, That whenever twenty
2 five thousand dollars of stock is subscribed by individu-
3 als, the Treasurer on part of the State shall subscribe ten
4 thousand dollars of the capital stock thereto ; and as the
5 individual stock is increased to forty thousand dollars, the
6 State's subscription shall be increased to twenty thousand
7 dollars, and so, from time to time, when individuals sub-
8 scribe two thousand dollars, the Treasurer shall sub-
9 scribe on the part of the State, one thousand dollars, so
10 as at all times to make the State's stock equal to one
11 third of the entire capital stock subscribed ; and the stock
12 on part of the State shall be paid as the instalments are
13 called for by the President and directors of the company
14 from the individual members of the company ; and after
15 the corresponding instalments have been paid by the in-
16 dividual stockholders, in cash or labor, or contract for la-
17 bor, with bond and approved security for the performance
18 of the work, and not before.

XXVII. *Be it further enacted*, That, to enable the
2 State to raise her part of the capital stock when the same
3 shall be required as herein provided, the Treasurer of the
4 State for the time being shall, from time to time, issue
5 bonds or certificates of debt, under the great Seal of the
6 State, signed by the Governor, countersigned by the
7 Treasurer, and guaranteed by the pledge of the faith of

8 the State, in sums not less than five hundred dollars, with
 9 interest at the rate of six per cent. per annum, payable
 10 semi annually ; the principal of which bonds shall be
 11 redeemable at the end of twenty five years from the time
 12 the same shall be issued ; but no greater amount of such
 13 bonds shall be issued, at any one time, than shall be suf-
 14 ficient to meet the instalments required to be made by
 15 the State at that time ; and the payment of the State's said
 16 subscription, from time to time, shall be made in such
 17 bonds, which shall be received by the company, as cash,
 18 and shall not be sold by the company below par : *Provid-*
 19 *ed, however,* if the Treasurer finds that said bonds can be
 20 sold for a premium, it shall be his duty to do so, and
 21 make the payments of the State's stock in cash ; and the
 22 State shall have the right to appoint one third of the di-
 23 rectors of said road.

XXVIII. *Be it further enacted,* That this act shall
 2 be in force from and after its ratification, and shall con-
 3 tinue in force for fifty years, and shall be regarded as a
 4 public act ; and the road hereby authorized to be built
 5 shall be a public high way.

Introduced by Mr. BRIDGERS. Read 1st time, and on Mr. Wilson's motion, laid on the table and ordered to be printed.

RESOLUTION.

Resolved, That we the Representatives of the Freeman
2 of the State of North Carolina believe it inexpedient at
3 the present time to build the North Carolina Rail Road
4 which was chartered by the Legislature of 1848-'49.

Be it therefore Resolved, That the president of the Board
2 of Directors of said Rail Road be requested to inform the
3 individual stockholders of said Rail Road thereof.

Resolved, That we believe that the majority of the free-
2 men of the State of North Carolina are opposed to build-
3 ing said Rail Road at the present time.

Resolved, That the stockholders in the said "North Car-
2 olina Rail Road Company" be respectfully requested to
3 surrender their Charter to the present General Assembly
4 on or before the first day of January next.

[Introduced by Mr. R. M. SAUNDERS. Read and adopted, and ordered to be printed.]

RESOLUTIONS OF INSTRUCTION.

I. *Resolved*, That the committee on Internal Improvements inquire into the expediency of repairing or disposing of the Gaston and Raleigh Rail Road, and to this end they consider,

1 Whether it be most expedient that the State
2 should repair the same at its own expense, retaining the
3 entire interest.

2. That a new company should be chartered with
2 a capital of seven hundred and fifty thousand dollars, the
3 present interest of the State to form one third; one third
4 or more to be taken by private individuals, and the State
5 to take whatever may remain, or so much thereof as may
6 be necessary for placing the Road in proper order.

3. That the Governor contract for the disposing
2 of the interest of the State to the best advantage, *provided*
3 he shall not take less than a valuation to be fixed by
4 such competent Engineer as he may select for that purpose.
5

[HOUSE Doc. No. 20]

REPORT

FROM

THE COMMITTEE ON THE JUDICIARY,

ON THE

BILL CONCERNING BONDS

OF

SHERIFFS, CORONERS AND CONSTABLES.



[RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

REPORT

THE COMMITTEE OF THE HOUSE

ON THE

[Read the second time, amendment reported by Committee adopted, and on motion of Mr. R. M. Saunders, laid on the table and ordered to be printed.]

REMARKS OF

1850

John A. James, Printer to the House

1850

REPORT.

The Committee on the Judiciary, to whom was referred the bill entitled "A Bill concerning the official bonds of Sheriffs, Coroners and Constables," have had the same under consideration, and report the bill with an amendment, and recommend its passage. The following is the amendment proposed, viz. strike out all of the preamble, after the word "offices." Your committee deem it advisable to state, with as much brevity as possible, some of the leading reasons which induce them to believe that further legislation upon this subject is absolutely indispensable.

It is certainly true, as stated in the preamble, that the sureties of Sheriffs, Coroners and Constables, are not now responsible for torts and trespasses committed by their principals. This opinion, as to the existing law, is fully sustained by the following three cases recently decided in the Supreme Court, viz. State on the relation of Henry Martin *vs.* Richard W. Long and others, Iredell's Reports, 8th Vol. page 415; State upon the Relation of Robert W. Ellis *vs.* Rich. W. Long and others, Iredell's Reports, 8th Vol. page 513; and State to the use of William Butts *vs.* Michael Brown, Iredell's Reports, 11th Vol. page 141.

The following is the substance of the decision in the case first above mentioned, as condensed by the reporter: "where upon an action against a sheriff and his sureties, on his official bond, it appeared that the relator was a defendant in a writ, directed to the sheriff, and in his hands, and that the sheriff did not take a bail bond, but, in lieu of that, took a deposit in money, held that the sureties of the sheriff were not liable, although the said defendant offered to surrender himself and demanded the money of the sheriff." The following is the substance of the decision in the case secondly above mentioned, viz. "A. having a writ served upon him, placed in

the hands of the sheriff who served the writ a sum of money to discharge the debt for which he was sued, but the sheriff neglected to apply it for that purpose and A was compelled to pay the debt out of other funds. Held, the sureties of the sheriff were not bound to A for such neglect." In the case of the State *vs.* Brown, already referred to, the following are the words in which the reporter presents an abstract of the decision of the Court, viz: The sureties on the official bond of the sheriff are not liable for a trespass committed by him under color of his office.

In that case, the hardship and injustice of the law as it now stands, was presented in a very striking point of view. It appears from the facts stated, that a former sheriff of Rowan claimed from the relator a pedlar's tax of \$100 each, for failing to show a license as to two wagons which were used in hauling segars manufactured at Bethania in Forsythe County, from that place to Salisbury. The owner of the wagons informed the officer that they were loaded with articles manufactured within the limits of North Carolina, and remonstrated against the collection of a pedlar's tax from him. He was not liable for any tax according to the express words of the Act of Assembly, Revised Statutes, Chapter 102. sec 10. The officer however demanded the sum of \$200, seized upon and sold his property in order to enforce this illegal exaction, applied the proceeds of the sale to his own private purposes, and never paid one cent of the money into the public treasury. The party injured sued the sheriff, and obtained a judgment against him for damages, but the sheriff took the insolvent debtor's oath, and the recovery turned out to be unavailing. He then brought an action against the sheriff's securities, but it was decided by the Supreme Court that they were not liable. The Judges themselves have expressed their deep sense of the injustice and hardship of our present law relative to official bonds. In delivering the opinion of the Court in the case last referred to, Judge Nash makes the following remarks, viz: "We must be permitted to express our own regret that the obligations into which our

ministerial officers enter upon taking office, are so insufficient to the security of the public." The above decisions were made in actions upon sheriffs' bonds, but there can be no doubt but that the principle of the decisions is equally applicable to the bonds of Coroners and Constables. Your committee, for the reasons above stated, recommend the passage of the bill reported, with the proposed amendment.



A BILL

Concerning the official bonds of Sheriffs, Coroners and Constables.

Whereas the sureties to the official bonds of Sheriffs, Coroners and Constables are not now responsible for torts and trespasses committed by their principals under color of their respective offices: Therefore,

1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That the bonds which sheriffs are now required to give in the Revised Statutes, Chapter 109, Section 13, and also the bonds of Coroners and Constables, shall hereafter be so drawn, as to contain, in addition to the conditions already provided, a further condition, that the officer, during his continuance in office, will commit no trespass, wrong or injury of any description whatever by color of his said office, nor do any act whatever by color of his said office which is not authorized by law.*

[Introduced by Mr. MIZELL. Read 1st. time and passed and ordered to be printed.]

RESOLUTION

Declaring the propriety of certain amendments to the Constitution.

I. *Resolved*, That an amendment to the Constitution ought to provide that the General Assembly shall not in any manner create any debt or debts; liability or liabilities, which shall, singly or in the aggregate, exceed the sum of \$100,000, except in case of war, to repel invasion or suppress insurrection; nor shall the credit of the State be in any manner given or loaned to or in aid of any individual association or corporation, unless the same shall be authorized by some law for some single object or work to be distinctly specified therein, which law shall provide ways and means exclusive of loans for the payment of the interest of such debt or liability as it falls due, and also to pay and discharge the principal of such debt on liability within 15 years from the time of the contracting thereof, and shall be irrepealable until the principal and interest thereon shall be paid and discharged; but no such law shall take effect until it shall have been passed by a majority of all the votes in each and both Houses of the General Assembly, at the next regular session thereof; and all monies raised by authority of such law shall be applied only to the specific object therein stated, or to the payment of the debt thereby created; and such law shall be published in at least one newspaper in each judicial

24 district, if one is published therein, throughout the State,
25 for three months preceding the next election of members
26 of the General Assembly; *provided, nevertheless*, that the
27 General Assembly may at any time after the approval of
28 such law, if no debt shall have been contracted in pursu-
29 ance thereof, repeal the same, and may at any time, by law,
30 forbid the contracting of any further debt or liability un-
31 der such law; but the tax imposed by such act, in propor-
32 tion to the debt or liability which may have been contract-
33 ed in pursuance of such law, shall remain in force and
34 be irrepealable and be collected until the proceeds thereof
35 shall have made the provision necessary to pay and dis-
36 charge the interest and principal of the debt or liability
37 contracted as hereinbefore specified.

A BILL

TO IMPROVE

THE

PUBLIC ROADS

IN

North Carolina.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. CALDWELL of Burke. Passed first reading and ordered
to be printed, and referred to Committee on Internal Improvements.]

A BILL

To improve the public Roads in the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That some fit and suitable person, in every county in this State, shall be appointed by the magistrates of the respective counties, a majority of twelve being present, at the first Court of Pleas and Quarter Sessions which shall happen on or after the first Monday in June 1851, and annually thereafter, at the first Court of Pleas and Quarter Sessions which shall happen on or after the first Monday in June in each successive year, which said person so appointed shall be styled the superintendent of public Roads.

II. *Be it further enacted,* That no person over fifty years of age shall be appointed a superintendent of public Roads; and the persons so appointed shall own and possess not less than three hundred acres of land in the county in which they reside.

III. *Be it further enacted,* That said superintendents shall have the supervision of all public Roads and highways, (where there are no chartered rights) running through or located in the counties for which they are respectively appointed; and for the purpose of enabling them to keep the same in good and lawful repair, they shall have control of all hands liable to work on public roads, who shall be subject to their order in the same manner that road hands are now subject to the order of overseers of public roads.

IV. *Be it further enacted,* That the said superintendents, shall respectively, have full power and authority, and they

3 are hereby invested with the same, to appoint as many
 4 agents or sub overseers in their respective counties as they
 5 may deem requisite and necessary, and to assign to each
 6 of them such a portion of any public road (the nearest
 7 point of which shall not be at a greater distance than two
 8 miles from said agent's or sub overseer's place of residence)
 9 and such a number of hands to work the same as the
 10 said superintendents may deem necessary and sufficient;
 11 and it shall be the duty of said agents or sub overseers to
 12 call out the hands committed to their charge for the pur-
 13 pose of working the roads as often as may be necessary
 14 to keep them in good and lawful repair.

V. *Be it further enacted*, That the superintendents
 2 shall cause a record of their appointments of agents or
 3 sub overseers, to be made in the County Courts of their
 4 respective counties at the same term that they, the super-
 5 intendents, are appointed, or at the next succeeding term;
 6 and it shall be the duty of the Clerks of said Courts to is-
 7 sue a notice of said appointments to the agents or sub
 8 overseers, which said notice shall be executed by the Sher-
 9 iffs or Constables of the respective counties, and a copy of
 10 the same returned into the office of the Clerk issuing the
 11 same; and any agent or sub overseer refusing to serve for
 12 one year shall forfeit and pay the sum of forty dollars, to
 13 be recovered by the superintendent before any Magistrate,
 14 which said sum so recovered shall go into the road fund
 15 of the county where the same is recovered.

VI. *Be it further enacted*, That any person liable to
 2 work public roads, who shall fail to appear at the time
 3 and place appointed for working, after having had three
 4 days notice, shall forfeit and pay for every such failure
 5 the sum of one dollar per day, to be recovered in the name
 6 of the superintendent, by warrant, before any Justice of
 7 the Peace in his county and the sums so recovered shall go
 8 into and constitute a part of the road fund; and the owner
 9 or owners of slaves shall likewise be subject to the same
 10 forfeiture for a failure of his, her or their slave or slaves

11 to attend, to be sued for, recovered and invested in like
 12 manner as above directed *provided however* : that sickness
 13 or absence from the county shall be deemed and held suf-
 14 ficient to exempt any person failing to attend from the for-
 15 feiture imposed by this act.

VII. *Be it further enacted*, That the superintendents
 2 of public roads appointed under and by virtue of this act,
 3 shall be liable in a State prosecution for permitting the
 4 public roads in their respective counties to become ruin-
 5 ous or in bad repair, in the same manner that overseers of
 6 public roads are now liable; and each superintendent, upon
 7 his being indicted and convicted, and after he shall have
 8 paid up and discharged the costs incurred and fine im-
 9 posed by reason of his said conviction, may, in his own
 10 name, before any magistrate, recover for his own use from
 11 his agent or sub overseer, one half of the amount of costs
 12 incurred and fine imposed by reason of his said convic-
 13 tion: *provided however*, that no agent or sub-overseer shall
 14 be so liable to the superintendent, except the one by rea-
 15 son of whose negligence and default the superintendent
 16 was subjected to indictment; and upon the trial of the
 17 issue between the superintendent and his agent or sub-
 18 overseer, a record of said superintendent's conviction shall
 19 be prima facie evidence in his behalf.

VIII. *Be it further enacted*, That it shall be the duty
 2 of the superintendents, from time to time, to recommend
 3 to the Courts of Pleas and Quarter Sessions for their re-
 4 spective counties, such alterations or amendments of the
 5 roads as they may deem necessary for the improvement of
 6 the same, and also the laying out of new roads where the
 7 public convenience requires it; and upon said recommen-
 8 dation being made, the County Court, five Justices being
 9 present, shall appoint four freeholders and the county
 10 Surveyor to examine the proposed alterations or amend-
 11 ments and the expediency of establishing a new road, and
 12 to report to the next term of said court whether the same
 13 be necessary or not, and if necessary, to assess to the own-

14 er or owners of contiguous lands, such damages as he, she
 15 or they may sustain by reason of such alterations, amend-
 16 ments and laying out of new roads; and upon the said re-
 17 port being made by a majority of the persons appointed
 18 under this section of this act, it shall be the duty of the
 19 County Court, five Justices being present, to confirm the
 20 same and to issue an order to the superintendent to make
 21 whatever alterations or amendments and to open out
 22 whatever public road may be recommended; and for the
 23 purpose of perfecting the same, the said superintendents
 24 shall have the control of a sufficient number of hands liv-
 25 ing within a reasonable distance of the proposed new
 26 road, or of the place where the amendments or altera-
 27 tions are to be made; and in case of the failure of any
 28 person notified, to attend, he shall pay the sum of one
 29 dollar per day for every such failure, to be recovered by
 30 warrant before any Magistrate, and when collected it shall
 31 go into the road fund of the county.

IX. *Be it further enacted,* That the four freeholders
 2 shall be entitled to and receive one dollar each per day,
 3 and the county Surveyor two dollars per day, for the num-
 4 ber of days they shall be actually engaged in discharging
 5 the duties required of them by the 8th section of this act,
 6 which shall be paid to them by the county Trustee, out
 7 of any monies belonging to the county, their claim being
 8 first allowed by the County Court, and then entered upon
 9 the county Trustee's book in their proper order and paid
 10 off as other county claims are paid.

X. *Be it further enacted,* That the superintendent of
 2 public roads in each and every county, shall receive by
 3 way of compensation for his services, a salary to be fixed
 4 by the Court of Pleas and Quarter Sessions of his county,
 5 a majority of the Justices being present, which said sala-
 6 ry shall not be more than five hundred, nor less than one
 7 hundred dollars per annum; and for the payment of which
 8 an annual tax of not more than ten cents on the poll and
 9 ten cents on every three hundred dollars worth of land

shall be levied, which said tax shall be collected as other taxes are now collected, and paid over to the county Trustee of each county, and by him disbursed as the Court of Pleas and Quarter Sessions, a majority of the Justices being present, may direct.

XI. *Be it further enacted*, That every Sheriff in the State, in addition to the bonds now required of him by law, shall enter into bond in the sum of ———— dollars, payable to the State, with good and sufficient sureties, to be judged of by the County Court, a majority of the Justices being present, for faithfully collecting and paying over to the county Trustee the aforesaid road Tax.

XII. *Be it further enacted*, That each and every county Trustee in this State shall, in addition to the bond now required by law, enter into bond in the sum of ———— dollars, payable to the State, with good and sufficient surety, to be judged of as directed in the preceding section of this act, for the safe keeping and proper disbursement of the monies arising from the aforesaid road tax.

XIII. *Be it further enacted*, That any person who may feel himself or herself aggrieved by reason of any judgment rendered by a Magistrate in pursuance of this act, shall have the right of appeal, under the same rules, regulations and restrictions as are observed in other cases of appeals from Justices judgments.

XIV. *Be it further enacted*, That all laws and clauses of laws coming in conflict with this act, be, and the same are hereby repealed.

XV. *Be it further enacted*, That this act shall be in force from and after its ratification.

10 shall be levied, which said tax shall be collected as and
11 taxes are now collected, and paid over to the County Treas-
12 (or of each county, and by him disbursed as the Court or
13 Judges and Quarter Sessions a majority of the Justices be-
14 lieve proper, may direct.

15 Be it further enacted, That every person in the
16 County of Kent, in addition to the duties now imposed of duty
17 law, shall enter into bond in the sum of

18 dollars, payable to the State, with good and sufficient sure-
19 ties to be judged of by the County Court, a majority of
20 the Justices being present, for faithfully collecting and
21 paying over to the County Treasurer the amount of said Tax.

22 Be it further enacted, That each and every
23 County Treasurer in this State shall, in addition to the bond
24 now required by law, enter into bond in the sum of

25 dollars, payable to the State, with good
26 and sufficient sureties, to be judged of as directed in the pre-
27 ceding section of this act, for the safe keeping and proper
28 disbursement of the moneys arising from the collection
29 of said tax.

30 Be it further enacted, That any person who
31 may feel himself or be well satisfied by reason of any
32 judgment rendered by a Magistrate in pursuance of this
33 act, shall have the right of appeal under the same rules
34 regulations and restrictions as are observed in other cases
35 of appeals from Justices judgments.

36 Be it further enacted, That all laws and chap-
37 ters of laws coming in conflict with this act, be and the
38 same are hereby repealed.

39 Be it further enacted, That this act shall be in
40 force from and after its publication.

[SENATE DOC. NO. 24.]

A BILL

TO PROVIDE

FOR THE INCORPORATION OF COMPANIES

TO CONTRUCT

PLANK AND TURNPIKE ROADS.



RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. HAUGHTON. Read first time and passed and referred to committee on Corporations, and ordered to be printed.]

A BILL

To provide for the incorporation of companies to construct plank roads, and of companies to construct turnpike roads, and for other purposes.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That any number of persons not less than five, may be formed into a corporation, for the purpose of constructing and owning a plank road, or a turnpike road, by complying with the following requirements: Notice shall be given in at least one newspaper printed or circulated in each county through which said road is intended to be constructed, of the time and place or places where books for subscribing to the stock of such road will be opened; and when stock to the amount of at least five hundred dollars for every mile of the road so intended to be built, shall be in good faith subscribed, then the said subscribers may, upon due and proper notice, elect directors for the said company; and thereupon they shall personally subscribe articles of association, in which shall be set forth the name of the company, the number of years that the same is to continue, which shall not exceed fifty years from the date of said articles; whether it is a plank or turnpike road, which the company is formed to construct; the amount of the capital stock of the company; the number of shares of which the said stock shall consist; the number of directors and their names, who shall manage the concerns of the company for the first year, and shall hold their offices until others are elected; the place to and from which the proposed road is to be constructed. Each subscriber to such articles of association, shall subscribe thereto his name and place of residence and the number of shares of stock taken by him in said company. The said articles of association may, on complying with the provisions of the next section, be filed in the office of the secretary of State, and thereupon, the persons who have so subscribed, and all persons who shall from time to time become stock-

35 holders in such company, shall be a body corporate, by the
 36 name and style specified in such articles; and by such
 37 name and style may acquire, hold, possess and transfer,
 38 such real, personal and mixed estates, so far as may be
 39 necessary for constructing such road by this act authoriz-
 40 ed to be made, or of managing the affairs of such com-
 41 pany; and shall have perpetual succession and a com-
 42 mon seal, which may be altered and renewed at pleasre:
 43 and any such company so formed by virtue of and ac-
 44 cording to the provisions of this act, shall have and enjoy
 45 and may exercise all the powers, rights and privileges
 46 which other corporate bodies may lawfully do, for the
 47 purposes mentioned in this act; and may make all such
 48 bye laws, rules and regulations, not inconsistent with the
 49 laws of this State or of the United States, as shall be ne-
 50 cessary for the well ordering and conducting of the affairs
 51 of such company; and by the name so adopted as aforesaid,
 52 may sue and be sued, plead and be impleaded, in any of
 53 the courts of this State.

II. *Be it further enacted*, That such articles of asso-
 2 ciation shall not be filed in the office of the Secretary of
 3 State, until five per cent. on the amount of the stock sub-
 4 scribed thereto, in cash, to the directors named in such
 5 articles shall be paid, nor until is endorsed thereon, by
 6 at least three of the directors named in such articles, a
 7 certificate that the amount of capital stock required by
 8 the first section has been subscribed, and that five per
 9 cent on the amount has actually been paid in.

III. *Be it further enacted*, That a copy of any ar-
 2 ticles of association filed in pursuance of this act, togeth-
 3 er with a copy of the certificate aforesaid endorsed there-
 4 on or annexed thereto, and certified to be a copy by
 5 the Secretary of State or his deputy, shall in all courts
 6 and places be presumptive evidence of the incorporation
 7 of such company, and of the facts therein stated.

IV *Be it further enacted*, That the directors named
 2 in such articles, shall have power to make contracts with
 3 any person or persons, on behalf of such company or as-
 4 sociation for the construction of any plank or turnpike
 5 road, and of performing all other things, respecting the
 6 same, which they shall judge necessary and proper,
 7 and to require from the stockholders from time to time,
 8 such advances of money, on their respective shares, as the
 9 wants of such company may demand, until the whole of
 10 their subscription shall have been paid; to call, on any
 11 emergency, a general meeting of the stockholders; to ap-
 12 point a President and such other officers as they may

13 deem necessary to transact the business of the company,
 14 taking from them, at their discretion, bond and security
 15 for the faithful discharge of their several duties and duly
 16 accounting for all moneys coming into their hands; which
 17 bonds so taken, shall be made payable to said company
 18 by its name and style; and also to appoint such superin-
 19 tendents, managers and toll gatherers, as may be neces-
 20 sary; and generally to transact all the business of such
 21 company between the general meetings of the stock-
 22 holders.

V. *Be it further enacted*, That the directors of any
 2 company incorporated under this act, may require pay-
 3 ment of the sums subscribed to the capital stock, at such
 4 times, and in such proportions and on such conditions as
 5 they shall see fit, under the penalty of the forfeiture of their
 6 stock, and all previous payments thereon; and they shall
 7 give notice of the payments thus required and of the place
 8 and time when and where the same are to be made, at least
 9 thirty days previous to the payment of the same, in one
 10 newspaper printed or circulated in each county, in or
 11 through which their road is located, or by sending such
 12 notice to such stockholder by mail, directed to him, at his
 13 usual place of residence.

VI. *Be it further enacted*, That the business and
 2 property of such company shall be managed and con-
 3 ducted by a board of directors, consisting of not less than
 4 five nor more than nine, who, after the first year, shall
 5 be elected at such time and place as shall be directed by
 6 the bye laws of such corporations and public notice
 7 shall be given of the time and place of holding such
 8 election, not less than twenty days previous thereto, in
 9 a newspaper printed or circulated in each county in or
 10 through which the road of such company is located; the
 11 election shall be made by such stockholders as shall at-
 12 tend for that purpose, either in person or by proxy; all
 13 elections shall be by ballot, and each stockholder shall
 14 be entitled to as many votes as he shall own shares of
 15 stock, and the persons having the greatest number of
 16 votes, shall be directors; whenever any vacancy shall
 17 happen in the board of directors, such vacancy shall be
 18 filled for the remainder of the year by the remaining di-
 19 rectors; the directors shall hold their office for one year
 20 and until others are elected in their places; no person
 21 shall be a director unless he is a stockholder in the com-
 22 pany.

VII. *Be it further enacted*, That such board of di-
 2 rectors, their officers or agents, may agree with the owner

3 of any land over which any plank or turnpike road is in-
 4 tended to pass, according to and by virtue of the provis-
 5 ions of this act, for the purchase and transfer of the
 6 same; and in case of disagreement, or if the owner or
 7 owners shall be *femme covert*, under age, *non compos*
 8 *mentis*, or out of the State, on application to any two
 9 Justices of the Peace, of the county where the lands lie,
 10 such Justices shall issue their warrant to the sheriff of
 11 said county to summon eighteen free holders to meet on
 12 the land to be valued, on the day expressed in said war-
 13 rant, not less than ten nor more than twenty days there-
 14 after; and the sheriff on the receipt of the warrant, shall
 15 summon the free holders accordingly, and when met,
 16 shall draw twelve of them, who, after being duly sworn,
 17 shall impartially value the land in question and consider
 18 the damages; if any, the owner thereof may sustain; and
 19 the inquisition so taken, shall be signed by the jury and
 20 countersigned by the sheriff, and returned to the Clerk
 21 of the county court to be recorded; and in all cases, the
 22 jury is hereby directed to describe the land valued, and
 23 such valuation shall be conclusive; and the said board
 24 of directors shall pay the sum so found by the jury to
 25 the owner of the land valued or to his legal representa-
 26 tives; and if neither can be found in this State after ad-
 27 vertisement for six weeks in some paper published in the
 28 City of Raleigh, or if he or they refuse to receive the
 29 money, then to the clerk of the county court; and on
 30 payment thereof, such corporation shall be seized in fee
 31 of the land, as fully and absolutely as if it had been con-
 32 veyed to them in fee by the owner.

VIII. *Be it further enacted*, That such board of di-
 2 rectors, or their agents, may agree with the proprietor
 3 or proprietors, for any quantity of land they may deem
 4 necessary for their purposes, at or near each station or
 5 place intended for the collection of tolls, for the purpose of
 6 erecting the necessary buildings, gates &c., intended for
 7 the purposes of the company; and in case of disagree-
 8 ment or disability as aforesaid, the same proceedings may
 9 be had, and the same conveyance and title shall follow,
 10 as are prescribed in the preceding section: *Provided*,
 11 that in cases of disagreement not more than three acres
 12 of land shall be condemned to the use of such company
 13 at any one station.

IX. *Be it further enacted*, That it shall and may be
 2 lawful for the said board of directors, as soon as five miles

3 of any plank or turnpike road are completed according to
4 or by virtue of this act, to demand and receive, at conve-
5 nient toll gates, to be by them erected, a reasonable toll
6 from all persons using such road.

X. *Be it further enacted*, That every plank road made
2 by virtue of this act shall be laid out at least eight feet
3 wide, and shall be so constructed as to make a smooth
4 road, the track of which shall be made of timber, plank
5 or other hard material, and so constructed as to permit
6 carriages and other vehicles, easily to pass each other by
7 turns out or otherwise, and also to permit all carriages,
8 &c. to pass on and off where such road is intersected by
9 other roads.

XI. *Be it further enacted*, That every turnpike road
2 constructed by virtue of this act, shall be laid out at least
3 ————— feet wide; and shall be bedded with
4 stone, gravel or such other material as may be found on
5 the line thereof, and faced with broken stone or gravel, so
6 as to form a hard and even surface, with good and suf-
7 ficient ditches on each side wherever the same is practi-
8 cable and necesssay. The arch of such road shall be at
9 least ————— feet wide, and shall be so cor-
10 structed as to permit carriages and other vehicles conve-
11 niently to pass each other, and to pass on and off such
12 turnpike where it may be intersected by other roads.

XII. *Be it further enacted*, That the shares of any
2 company formed under this act, shall be deemed personal
3 property, and may be transferred as shall be prescribed
4 by the by-laws of such company; the directors of every
5 such company, may, at any time, with the consent of a
6 majority, in amount, of the stockholders in such compa-
7 ny, increase the capital stock of such company as may
8 be necessary.

XIII. *Be it further enacted*, That in addition to the
2 corporations herein before authorised by this act, any
3 number of persons, not less than five, who by articles of
4 agreement in writing shall associate, according to the

5 provisions herein after made, under any name assumed
 6 by them, for the purpose of engaging in and carrying on
 9 any kind of manufacturing, mechanical, mining, or quar-
 10 rying business, or for any other lawful business and pur-
 11 pose whatsoever, and who shall comply with the provis-
 12 ions herein after mentioned, with their successors and
 13 assigns, constitute a body politic and corporate, under the
 14 name and style assumed by them in their articles of asso-
 15 ciation; and shall be capable to sue and be sued, plead and
 16 be impleaded, appear and prosecute to final judgment in
 17 any court or elsewhere in this State; to have a common
 18 seal, and to alter the same at pleasure; to elect, in such
 19 manner as they shall determine, all necessary officers, to
 20 fix their compensations and define their duties, to ordain
 21 and establish by-laws for the government and regulation
 22 of their affairs, and to alter and repeal the same; and to
 23 employ such agents, mechanics, and other laborers, as
 24 they shall think proper.

XIV. *Be it further enacted*, That the amount of the
 2 capital stock in every such corporation, shall be fixed and
 3 limited by the stockholders in their articles of association,
 4 and in the case of a plank [road] shall not exceed——
 5 ———— thousand dollars per mile of such road; in
 6 the case of a turnpike road shall not exceed——
 7 ———— thousand dollars per mile of such road; and in the
 8 case of any other corporations created under this act,
 9 shall not exceed——— thousand dollars, nor
 10 be less than——— thousand dollars, and
 11 which capital stock may, according to the provisions of
 12 section 12th, of this act, be increased from time [to
 13 time] within the limits herein prescribed.

XV. *Be it further enacted*, That the purpose for which
 2 every such corporation shall be established, shall be dis-
 3 tinctly and definitely specified by the stockholders in their
 4 articles of association; and it shall not be lawful for such
 5 corporation to direct its operations or appropriate its funds
 6 to any other purpose.

XVI. *Be it further enacted*, That the stock, property,
 2 business and affairs of every such corporation as shall be
 3 created by virtue of this act shall be under the care of
 4 and shall be managed by a board of directors, who shall
 5 be chosen according to the provisions of the sixth section
 6 of this act, and shall be governed by the rules and regu-
 7 lations as are therein set forth; and any board of directors so
 8 appointed shall have the same power and authority to
 9 call in the capital stock, and to make all needful rules and
 10 regulations concerning the same as are specified in the
 11 fifth section of this act.

XVII. *Be it further enacted*, That a majority of the
 2 directors of every corporation created by virtue of this
 3 act, convened according to the by-laws, shall constitute a
 4 quorum for the transaction of business.

XVIII. *Be it further enacted*, That the books of every
 2 such corporation, containing their accounts, shall at all
 3 reasonable times be open for the inspection of any of
 4 the stockholders and as often as once in each year, a
 5 statement of the accounts of such corporation shall be
 6 made by order of the directors.

XIX. *Be it further enacted*, That before any corpora-
 2 tion (other than those for the construction of a plank or
 3 turnpike road) formed and established by virtue of this
 4 act, shall commence business, the president and directors
 5 thereof, shall cause their articles of association to be pub-
 6 lished at full length in some newspaper printed or circu-
 7 lated in the county in which such corporation is located,
 8 and shall also make a certificate of the purposes for which
 9 such corporation is formed, the amount of their capital
 10 stock, the amount actually paid in, and the names of their
 11 stockholders, and the number of shares by each respec-
 12 tively owned, which certificate shall be signed by the pre-
 13 sident and a majority of the directors, and deposited with
 14 the Secretary of State, and a duplicate thereof with the
 15 Clerk of the County Court of the county in which said
 16 corporation is to transact its business; and said Secretary

17 and clerk shall record the same in books to be kept by them
 18 for that purpose; and a copy of such articles, so certified
 19 either from the office of Secretary of State or Clerk of the
 20 County Court aforesaid, shall in all Courts and places be
 21 presumptive evidence of the incorporation of such com-
 22 pany, and of the facts therein stated.

XX. *Be it further enacted*, That the several Courts
 2 of this State shall have the same jurisdiction over such
 3 corporations as are created by virtue of this act, and their
 4 officers, as over those created by special acts; and the laws
 5 now in force in this State which prescribe the manner of
 6 serving process &c. on corporations, shall apply to corpo-
 7 rations created by virtue of this act.

XXI. *Be it further enacted*, That this act shall take
 2 effect from and after its ratification.

[SENATE Doc. No. 25.]

A BILL

FOR THE

MORE SPEEDY AND CERTAIN

ADMINISTRATION OF JUSTICE,

AND FOR

OTHER PURPOSES.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. KELLY. Passed a first reading, ordered to be printed, and referred to the Committee on the Judiciary.]

A BILL.

For the more speedy and certain administration of justice.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter the State shall be divided into nine judicial circuits, and there shall be held in each and every county therein, three terms a year of the Superior Courts of Law and Equity.

II. *Be it further enacted,* That the said Superior Courts of Law and Equity shall be held in the several counties by the judges thereof now in office, and by two additional judges, to be appointed by virtue of this Act, and their successors in office.

III. *Be it further enacted,* That there shall be elected, by the joint vote of the two houses of the General Assembly, two judges in addition to the present number of judges of the superior court of law & equity, who shall be entitled to receive the same salaries as the judges of said courts have heretofore been allowed, and shall have and exercise the same power and authority, rights and privileges, as the present judges of said courts have and exercise.

IV. *Be it further enacted,* That said Superior Courts of Law and Equity shall continue to have and exercise the same jurisdiction, both civil and criminal, at law and in Equity; that the present Superior courts of law and equity have and exercise; and in addition thereto, the said superior courts of law shall hereafter have and exercise sole and exclusive original jurisdiction of all pleas whatsoever requiring the intervention of a jury, whereof the present superior courts or the courts of pleas and quarter sessions have heretofore had jurisdiction.

V. *Be it further enacted*, That hereafter no suit, civil
 2 or criminal, requiring the intervention of a jury, shall orig-
 3 inate in any of the Courts of Pleas and Quarter Sessions
 4 for this State, nor shall any juries summoned to attend
 5 said Courts of Pleas and Quarter Session.

VI. *Be it further enacted*, That all appeals from
 2 judgments rendered, by justices of the peace, in civil
 3 or criminal cases, and all recognizances taken by justices
 4 of the Peace, in criminal proceedings, shall be returnable
 5 to the next ensuing superior court of law, for the County
 6 in which they are taken, under the same rules and regu-
 7 lations now required by law.

VII. *Be it further enacted*, That the courts of Pleas and
 2 Quarter Sessions for the several counties in this State
 3 are hereby required, at their terms next after this Act
 4 goes into operation, to take up their respective State
 5 dockets, and in regular order bind over the parties there-
 6 in, together with the witnesses, to the next ensuing Su-
 7 perior Court of Law, for each county respectively.

VIII. *Be it further enacted*, That it shall be the
 2 duty of the clerks of the several courts of Pleas and
 3 and Quarter Sessions in this State, within twenty days
 4 immediately after the terms of their respective courts
 5 held next after this Act goes into effect, to make out a
 6 transcript of all suits, whether civil or criminal, then pend-
 7 ing in their respective courts, and deliver the same, to-
 8 gether with all papers relating thereto, to the clerks
 9 of the Superior Courts of their respective Counties.

IX. *Be it further enacted*, That it shall be the duty
 2 of the Clerks of the several superior courts to receive
 3 such transcripts and original papers, and immediately
 4 enter them on their respective Dockets in regular suc-
 5 cession, observing the order of precedence of each suit
 6 as indicated by its number; and in such order said suits
 7 shall stand for trial.

X. *Be it further enacted*, That when any will or pa-

2 per purporting to be the last will and testament of any
 3 person, is brought into any of the Courts of Pleas and
 4 Quarter Sessions of this State for probate, and the
 5 probate thereof is contested and an issue of *devisavit vel*
 6 *non* is joined, the clerk of such court shall make a re-
 7 cord of such issue, and shall, within ten days after the
 8 rise of such court, make out a transcript of such record,
 9 which, together with the original will or paper purport-
 10 to be a will, shall be delivered by him to the clerk of the
 11 superior Court of the county in which the same may be
 12 presented; and the clerk of said superior Court shall re-
 13 ceive and enter the same on his docket, and the several
 14 superior courts shall have full power and authority to try
 15 and determine all such cases; and it shall be the duty of
 16 the clerks of said superior courts, whenever any case
 17 may be determined in accordance with the above provis-
 18 ions, to issue a certificate thereof to the court of Pleas and
 19 Quarter Sessions of the the County from which the same
 20 may have originated, with the original will or paper,
 21 which shall be recorded by said court of Pleas and Quar-
 22 ter Sessions as evidence of the probate or rejection of
 23 said will or paper.

XI. *Be it further enacted*, That in all cases of caveats
 2 for land, the same proceedings shall be had and observed
 3 by the clerks of the Courts of Pleas and Quarter Sessions
 4 and Superior Courts respectively, as are prescribed in
 5 the tenth section of this Act in regard to Wills; and in all
 6 issues of bastardy, in all issues of fraud made up under
 7 the insolvent debtors Law, and in all other cases whatso-
 8 ever, where the courts of Pleas and Quarter Sessions
 9 properly have jurisdiction of the subject matter; but on is-
 10 sue being joined the intervention of a jury may be necessa-
 11 ry to try the same, and where the said courts have here-
 12 tofore had the right to make up such issue and try the
 13 same, it shall be the duty of the clerks of said courts
 14 to make out a transcript of the record of any such case
 15 within ten days after the rise of the court at which such
 16 issue may have been joined, and deliver it with all papers
 17 relating thereto to the clerk of the Superior court of that

18 County; and it shall be the duty of said superior court clerk
 19 to receive and enter the same on his docket; and the
 20 said superior courts are hereby authorized to take such
 21 proceeding therein as required by Law.

XII. *Be it further enacted*, That on any cause or issue
 2 being removed into any of said superior courts, from
 3 any Court of Pleas and Quarter Sessions or other inferi-
 4 or tribunal, under the provisions of this Act, it shall
 5 be the duty of the several clerks of said courts, on the
 6 application of either plaintiff or defendant, to issue sub-
 7 poenas and other process, as now required by Law.

XIII *Be it further enacted*, That hereafter the clerks
 2 of the several superior courts of Law in this State,
 3 by themselves or their deputy, shall be required to
 4 attend in their respective offices for the transaction of
 5 business, each day in the year, between the hours of
 6 9 and 12 o'clock in the morning, and two and five o'clock
 7 in the evening, except on Sundays and the fourth of
 8 July: and that if any clerk of the several courts of Pleas
 9 and Quarter Sessions, or of the several superior Courts,
 10 shall either fail or neglect to perform the duties required
 11 of him by the several provisions of this Act, such clerk
 12 shall forfeit and pay the sum of one hundred dollars for
 13 each and every case of failure or neglect, to be recovered
 14 by an action of debt, in a court of record, in the name of
 15 any person suing for the same, and be further liable to
 16 an action on the case for damages to the person injured
 17 by such failure or neglect.

XIV. *Be it further enacted*, That the several solicitors
 2 of the Superior Courts, now in office, shall be assigned to
 3 the circuits in which they respectively reside, as follows,
 4 to wit:

5
 6 and there shall be elected, by the joint vote of the two
 7 houses of the General Assembly, two other solicitors of
 8 said Courts in addition to those now in office, one for the
 9 ——— circuit and one for the ——— circuit, who shall
 10 receive the same salaries and fees, and hold the offices
 11 for the same time, and in all respects, as the present so-
 12 licitors.

XV. *Be it further enacted*, That the present General
 3 Assembly shall provide for the division of the State into
 3 nine judicial circuits as aforesaid, and shall fix the times
 4 for holding the said several superior courts therein.

XVI. *Be it further enacted*, That the several courts

2 of Pleas and Quarter Session in this State shall hereaf-
 3 ter be held at the time and in the manner in which they
 4 have usually been held, and shall be used as courts of
 5 probate and for the transaction of county business only,
 6 and shall not hold their sessions for a longer time than
 7 two days in each term thereof.

XVII. *Be it further enacted*, That this act shall be in
 2 force and take effect from and after the ——— day of
 3 ——— next.

XVIII. *Be it further enacted*, That all laws and clauses
 2 of laws conflicting with the provisions of this act, be, and
 3 the same are hereby repealed.

[SENATE Doc. No. 26]

REPORT

FROM

THE COMMITTEE ON INT. IMPROVEMENTS,

ON THE

BILL CONCERNING THE WILMINGTON

AND

MANCHESTER RAIL ROAD.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Report ordered to be printed.]

R E P O R T.



The Committee on Interaal Improvements, to whom was referred the bill and accompanying memorial, "concerning the Wilmington and Manchester Railroad Company," having had the same under consideration, have directed the said bill to be reported to the Senate with the following amendment and additional section, and recommend its passage.

In the 17th line of the 5th section, after the word *State*, insert the following: "and shall enter into a further obligation with personal or other security, to be approved of by the Treasurer of this State, to pay the interest on said bonds for the first two years after the same shall be issued.

"Sec. 8. *And be it further enacted*, That before the said bonds shall be delivered as aforesaid, the said Wilmington and Manchester Railroad Company shall enter into further obligations, to be approved of by the Attorney General of this State, that in case of domestic invasion or insurrection, the said company will transport the troops and munitions of war of either of the States of North Carolina or South Carolina free of charge."

WM. H. THOMAS,
Chairman.

A BILL

Concerning a Convention.

House of Com. Nov. 28, 1850.

[Introduced by Mr. RAYNER. Read first time and passed, and on motion of Mr. Rayner laid on the table and ordered to be printed:

A BILL.

Concerning a Convention to amend the Constitution of the State of North Carolina.

WHEREAS, it is strenuously insisted on by many of the
2 citizens of this State, that the provision in the Consti-
3 tution, requiring a freehold qualification to entitle per-
4 sons to vote for members of the Senate in the General
5 Assembly, operates as a heavy grievance upon a large
6 portion if not a majority of the freemen of the State; and
7 whereas, it is contended, by many, that a majority of the
8 freemen of the State demand a change in the Constitu-
9 tion, so as to extend the right of voting for members of
10 the Senate to all who are entitled to vote for members of
11 the House of Commons; and whereas, the General As-
12 sembly believe, that if this be a grievance to be reme-
13 died, measures should first be adopted providing for as-
14 certaining the will of their constituents preparatory to a
15 change of the Constitution: therefore,

I. *Be it enacted by the General Assembly of the State
2 of North Carolina, and it is hereby enacted by the au-
3 thority of the same, (two thirds of the members of each
4 House concurring,) That the Court of Pleas and Quarter
5 Sessions, of each and every county in the State, at the
6 first term that shall be held after the first day of Janu-
7 ary eighteen hundred and fifty one, shall appoint two
8 inspectors to superintend the polls to be opened at each
9 and every election precinct in said counties, for ascertain-
10 ing by ballot, the will of the freemen of North Carolina,
11 relative to the meeting of a State Convention. And if
12 any court or courts shall fail to make such appointments,
13 or if any inspector so appointed shall fail to act, it shall
14 be the duty of the Sheriff, or the person acting as his*

15 deputy for the occasion, with the advice of one Justice
16 of the Peace, or, if no Justice be present, with the advice
17 of three freeholders, to appoint an inspector or inspectors,
18 in the place of him or them, who failed to act, which in-
19 spectors, when duly sworn by some justice of the peace,
20 or freeholder, to perform the duties of the place with fi-
21 delity, shall have the same authority as if appointed by
22 the court.

II. *Be it further enacted*, That it shall be the duty of
2 the sheriffs of the respective counties in this State to
3 open polls at the usual election precincts in said coun-
4 ties, on the first Thursday in May 1851, when and where
5 all persons qualified by the Constitution to vote for mem-
6 bers of the House of Commons, may vote for or against
7 a State Convention—those who may wish a Convention
8 voting, with a printed or written ticket, "Convention,"
9 and those who do not want a Convention, voting, in the
10 same way, "No Convention," or "Against Convention."

III. *Be it further enacted*, That it shall be the duty
2 of the sheriffs to make duplicate statements of the polls
3 in their respective counties, sworn to before the clerk of
4 the county court; one copy of which shall be deposited
5 in said clerk's office, and the other transmitted to the
6 Governor of the State, at Raleigh, immediately after the
7 election.

IV. *Be it further enacted*, That it shall be the duty of
2 the Governor, as soon as he shall have received the re-
3 turns of the sheriffs, to compare, in the presence of the
4 Secretary of State, Public Treasurer and Comptroller,
5 the number of votes for and against a Convention; and
6 if it shall appear that a majority of the votes polled in
7 the State are in favor of a Convention, he shall forthwith
8 publish a proclamation of the fact in such newspapers as
9 he may think proper; and he shall issue a writ of elec-
10 tion to the sheriff of each and every county in the State,
11 requiring him to open polls for the election of delegates
12 to the Convention, at the same places, and under the
13 same rules, as prescribed for holding other State elec-
14 tions, said polls to be opened and elections held on the
15 first Thursday in August next.

V. *Be it further enacted*, That the same persons who
2 were appointed to hold the polls in taking the vote on con-
3 vention, on the preceding first Thursday in May, shall
4 hold them for the election of Delegates; *Provided*, That
5 if any such inspectors shall fail to attend or act, the Sher-
6 iffs and their deputies shall supply their places in the man-

7 ner herein-before pointed out in reference to the question
8 of "Convention" or "no Convention."

VI. *Be it further enacted*, That the several County
2 Courts shall allow the Sheriffs the same compensation for
3 holding the aforesaid election on the first Thursday in
4 May, that they usually allow for holding other State
5 elections. And if any Sheriff or other officer appointed
6 to hold said elections either on the aforesaid first Thurs-
7 day in May or August, shall fail to comply with the re-
8 quisitions of this act, he shall be liable to a fine of one
9 thousand dollars, recoverable before any competent
10 jurisdiction, to the use of the county whose officer
11 he is, and it shall be the duty of the county Solicitors to
12 prosecute such suits.

VII. *Be it further enacted*, That all persons qualified
2 to vote for members of the House of Commons, under the
3 present Constitution, shall be entitled to vote for mem-
4 bers to said Convention; and all free white men, of the age
5 of twenty one years, who shall have been resident in
6 the State one year previous to, and shall continue to be
7 so resident at the time of the election, shall be eligible to
8 a seat in said Convention.

VIII. *Be it further enacted*, That each county in the
2 State shall be entitled to elect the same number of del-
3 egates to said Convention that said county is entitled to
4 members in the House of Commons, and no more: *Pro-*
5 *vided*, that those counties, which, in consequence of di-
6 vision since the last apportionment, now vote together for
7 any given number of members in the House of Commons,
8 shall vote in the same way for delegates to said Convention.

IX. *Be it further enacted*, That if any vacancy shall
2 occur in any county delegation by death or otherwise,
3 the Governor shall forthwith issue a writ to supply the
4 vacancy. And the delegates elected shall convene in or
5 near the city of Raleigh on the third Monday in Sep-
6 tember next; and provided that a quorum does not at-
7 tend, on that day, the delegates may adjourn, from day
8 to day, until a quorum be present; and a majority of
9 delegates elected shall constitute a quorum to do bu-
10 siness.

X. *Be it further enacted*, That no delegate elect shall
2 be permitted to take his seat in Convention, until he
3 shall have taken and subscribed the following oath or
affirmation: "I, A. B., do solemnly swear (or affirm,
5 as the case may be) that I will not either directly or in-
6 directly evade or disregard the duties enjoined or the

7 limits fixed to this Convention by the people of North Car-
8 olina as set forth in the act of the General Assembly passed
9 at the session of 1850--1851, entitled "an act concerning
10 a Convention to amend the Constitution of the State of
11 North Carolina" which act was ratified by the people,---
12 so help me God."

XI. *Be it further enacted*, That the Public Treasurer
2 be, and he is hereby authorised to pay, upon the warrant
3 of the Governor, such sums of money as may be necessa-
4 ry for the contingent charges of the Convention, and also
5 to pay each member of the Convention one dollar and fif-
6 ty cents per day, during his attendance thereon, and five
7 cents for every mile he may travel to and from the Con-
8 vention.

XII. *Be it further enacted*, That it shall be the duty
2 of the Governor, immediately after the ratification of this
3 act, to transmit a copy to each County Court clerk in
4 the State, and to cause it to be published in the newspapers
5 of the State.

XIII. *Be it further enacted*, That the following proposi-
2 tion shall be submitted to the people for their assent or dis-
3 sent to the same; the former of which shall be under-
4 stood as expressed by the votes for "Convention," and
5 the latter by the votes "no Convention," or "against Con-
6 vention," at the time and in the mode herein before
7 provided, viz: that the said Convention, when a quorum
8 of the delegates who shall be elected, are assembled, shall
9 frame and devise an amendment to the Constitution of
10 this State, so as to provide, that all persons entitled to
11 vote for members of the House of Commons, shall also be
12 entitled to vote for members of the Senate in the Gene-
13 ral Assembly; and that said Convention shall not make any
14 other alteration or amendment of the Constitution what-
15 ever.

XIV. *Be it further enacted*, That if a majority of the
2 votes at the election first directed to be held by this Act,
3 shall be found 'for Convention,' it shall be considered and
4 understood that the people by their vote as aforesaid, have
5 conferred on the delegates to said Convention, the power
6 and authority to make the alteration and amendment
7 in the existing Constitution of the State, in the parti-
8 cular herein enumerated, but in no other.

XV. *Be it further enacted*, That the said Convention,
2 after having adopted an amendment to the Constitution
3 in the said particular, shall have power and authority to
4 prescribe the mode for the final ratification of the same by

5 the people of the State; and to prescribe all necessary
6 ordinances and regulations for the purpose of giving full
7 operation and effect to the Constitution as thus altered
8 and amended.

A B I L L

TO EXEMPT FROM EXECUTION A CERTAIN PORTION OF LAND.

House of Com. Dec. 2, 1850.

[Introduced by Mr. CHERRY. Read first time, and on motion of Mr. Flemming ordered to be printed.]

A B I L L

To exempt from execution a certain portion of the Land of
any citizen of the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That from and after the first day of 4 January 1852, any citizen of the State of North Carolina, who may be seized of any lands within said State, may 6 file a petition in the Superior or County Court of the 7 county wherein the same may be situated, praying to have 8 a homestead freehold laid off, in such lands, as the petitioner may designate; and thereupon the Court shall direct the Sheriff to summon three disinterested freeholders, who shall on oath allot to said petitioner, by metes and 12 bounds, fifty acres of land, including the dwelling house 13 and necessary out houses, where the petitioner is seized of 14 fifty acres or more; but if he be seized of a less quantity, then the whole; *provided*, that when the homestead 16 freehold is laid off in any town, it shall in no case exceed 17 the dwelling house and lot; and provided, the homestead 18 freehold shall in no case include any building not connected with the dwelling house, such as mills, and store 20 houses and the like; and make return thereof to said 21 Court; which return shall be certified by the Clerk of said 22 Court, and registered in the register's office of the county.

II. *Be it further enacted*, That the homestead freehold
2 so laid off, shall be exempt from execution, for any cause
3 of action accrued after the 1st of January 1852, nor shall
4 any person taken under a *capias ad satisfaciendum* for
5 any cause of action accrued as aforesaid, be compelled to
6 surrender his homestead freehold, but the same shall be
7 excepted, as arms for muster &c: *provided* that where any
8 person takes the benefits of the insolvent law, reserving
9 the homestead freehold, and shall afterwards convey or
10 dispose of the same, he shall be subject to be again taken
11 under a *capias ad satisfaciendum* in the same manner as
12 if he had never been discharged; nor shall the heirs or
13 devisees of said debtor be liable in respect thereof for any
14 debt contracted as aforesaid.

III. *Be it further enacted*, That no conveyance by the
2 husband of the homestead freehold so laid off, shall be
3 valid without the consent of the wife, as in cases of con-
4 veying the wife's land; and such homestead freehold shall
5 constitute the wife's dower, if the husband be seized of
6 no more land at his death, and shall constitute a part of
7 her dower, when he dies seized of more; *provided* this act
8 shall not prevent any person from disposing of or selling,
9 as he now can, the whole of his land, until the home-
10 stead freehold be laid off.

IV. *Be it further enacted*, That after the homestead
2 freehold is laid off, the agricultural produce of the same
3 shall be exempted from execution, in like manner as the
4 land itself.

V. *Be it further enacted*, That whenever any execu-
2 tion for any cause of action accrued as aforesaid, shall be is-
3 sued to any officer, under which it is necessary to sell the land
4 of the debtor, it shall be the duty of the officer, at the re-
5 quest of the debtor, to summon three disinterested free-
6 holders, who shall, before any sale is made, lay off the
7 homestead freehold as above directed; and if the officer so
8 requested shall refuse or neglect to comply with the di-
9 rections of this act, he shall be liable to indictment as for

10 misdemeanor in office; and the homestead freehold so laid
11 off, shall be in the same situation as if laid off under the
12 directions of the first section.

VI. *Be it further enacted*, That the homestead free-
2 hold shall not exceed fifty acres of land, or one thousand
3 dollars in value.

VII. *Be it further enacted*, That the Sheriff, Clerk,
2 and Register shall have the same fees as is now allowed
3 by law for analogous cases.

VIII. *Be it further enacted*, That all laws and clauses
2 of laws, coming within the purview and meaning of this
3 act, be, and the same are hereby repealed.

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OF
THE SENATE.

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Sherod,	M'Millan.
Eborn,	

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Messrs. Drake,	Wooten,
Hargrave,	Willey,
Pender,	Barrow.
Grist,	

COMMITTEE ON THE JUDICIARY.

Messrs. Woodfin,	Washington,
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Courts,	Kelly.
Gilmer,	

COMMITTEE ON INTERNAL IMPROVEMENTS.

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Haughton,	

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ON THE

GOVERNOR'S MESSAGE.

 AMENDMENT OF THE CONSTITUTION.

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NAG'S HEAD.

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Bynum,	

HISTORICAL DOCUMENTS.

Messrs. Hoke,	Davidson,
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Thompson.	

GEOLOGICAL & MINERALOGICAL SURVEY.

Messrs. Bynum,	Collins,
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CLAIM AGAINST UNITED STATES GOVERNMENT.

Messrs. Caldwell of M.
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Thornton,
Gordon,
Waugh,
Steele,
Adams,
Jerkins,
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JOINT COM. ON WESTERN TURNPIKE AND CHERO- KEE LANDS.

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COMMONS.

Messrs. G. W. Hayes,
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JOINT COM. ON SUBSCRIPTION FOR WASHINGTON MONUMENT.

SENATE.

Messrs. Cameron,
Hoke,
Joyner,
Bower,
Shepard,
Gilmer.

COMMONS.

Messrs. Jones
D. A. Barnes,
Rayner,
Reinhardt,
Wiley,
R. M. Saunders & Eaton.

*Joint Com. to compare and count votes cast for Governor at
the election in August last.*

SENATE.

Messrs. Bower,
Joyer,
Wooten.

COMMONS.

Messrs. Thornton,
Montgomery,
Steele.

JOINT COM. ON INSTITUTION FOR DEAF AND DUMB.

SENATE.

Messrs. Washington,
Cameron,
Watson.

COMMONS.

Messrs. Avery,
W. Hill,
Montgomery,
Jerkins,
Maulsby.

JOINT COMMITTEE ON MILITARY AFFAIRS.

SENATE.

Messrs. Clarke,
Bynum,
Caldwell of M.
Rogers,
Pender.

COMMONS.

Messrs. T. J. Person,
Joshua Barnes,
Tripp,
Siler,
Johnston,
Brogden,
Harrison,
Davidson,
Scott.

A B I L L

TO INCORPORATE THE

Tennessee River Railroad Company.

Senate Dec. 2, 1850.

[Introduced by Mr. THOMAS. Laid on the table and ordered to be printed.]

A B I L L

To incorporate the Tennessee River Rail Road Company,
in the county of Macon.

I. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That for the purpose of constructing a rail road from the point where the line of the State of Tennessee crosses the Tennessee river, to the point where the line of the State of Georgia crosses said river above the village of Franklin, in the county of Macon, in this State, the formation of a corporate company, with a capital stock of one million of dollars, is hereby authorized, to be called the Tennessee River Railroad Company, and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

II. That for the purpose of creating the capital stock of said company, the following persons be, and the same are hereby appointed commissioners viz: Jesse R. Siler; Henry G. Woodfin, Joab L. Moore, William Angel, Thos. J. Roan, William Morrison, Ebenezer Morrow, Dillard Love, Thompson Allman, Joseph Dobson, Jno. Howard,

7 Zebulon J. Thomas, George Wikle, Charles Hayes, John
8 Philips, David R. Lowry, T. P. Siler, John C. Bryson,
9 Thomas Angel, J. J. Johnston, and James K. Gray, or
10 any three of them, whose duty it shall be to open books,
11 for the subscription of stock, at such times and places, and
12 under the direction of such persons as they or a majority
13 of them may deem proper.

III. That whenever the sum of three hundred thousand
2 dollars shall be subscribed in manner and form aforesaid,
3 in shares of one hundred dollars each, the subscribers,
4 their executors, administrators or assigns shall be, and they
5 are hereby declared incorporated into a company by the
6 name and style of the Tennessee River Railroad Compa-
7 ny; and by that name shall be capable in law and equity,
8 of purchasing, holding, selling, leasing and conveying es-
9 tates, real, personal and mixed, and of acquiring the same
10 by gift or devise, so far as shall be necessary for the purpo-
11 ses embraced within the scope, object and interest of their
12 charter; and no further, and shall have perpetual succession,
13 and by their corporate name may sue and be sued, plead
14 and be impleaded, in any court of law and equity in the
15 State of North Carolina; and may have and use a common
16 seal, which they may alter and renew at pleasure, and
17 shall have and enjoy all other rights and immunities
18 which other corporate bodies may, and of right do exer-
19 cise; and make all such bye-laws, rules and regulations as
20 are necessary for the government of the corporation or ef-
21 fecting the object for which it was created, not inconsis-
22 tent with the constitution and laws of the State.

IV. It shall be the duty of the commissioners or a ma-
2 jority of them appointed under the second section of this
3 act, as soon as the sum of three hundred thousand dollars
4 shall have been subscribed in manner aforesaid, in shares
5 of one hundred dollars each, to appoint a time for the
6 stockholders to meet at Franklin, in the county of Ma-
7 con, after having given at least thirty days public notice;
8 at which time and place, a majority of the stockholders,

9 being represented in person or by proxy, shall proceed to
10 elect nine directors out of the number of stockholders,
11 each of whom shall possess at least five shares of the
12 stock, and the said stockholders shall then proceed to elect
13 a President and Treasurer, out of the number of stock-
14 holders; and the said directors shall have power to per-
15 form all other duties necessary for the government of the
16 corporation and the transaction of its business. The per-
17 sons elected directors at the meeting aforesaid shall serve
18 such period, not exceeding one year, as the stockholders
19 may direct, and at that meeting the stockholders shall fix
20 on the day and place or places, where the subsequent
21 election of president, treasurer and directors shall be held;
22 and such elections shall thenceforth be annually made,
23 but if the day of the annual election should under any
24 circumstances pass without the election of officers, the
25 corporation shall not thereby be dissolved, but the officers
26 formerly elected shall continue in office until a new elec-
27 tion takes place.

V. The election of president, treasurer and directors
2 shall be by ballot, each stockholder having as many votes
3 as he has shares in the stock of the company, and the
4 persons having a majority of the stock polled, shall be
5 considered duly elected. And at all elections and upon
6 all votes taken in any meeting of the stockholders, upon
7 any by-law or any of the affairs of the company, each
8 share of stock shall be entitled to one vote, to be repre-
9 sented either in person or by proxy, and proxies may be
10 verified in such manner as the by-laws of the company
11 may prescribe.

VI. That the board of directors may fill all vacancies
2 which may occur in it during the period for which they
3 have been elected, and in the absence of the president, may
4 appoint a president pro tempore to fill his place from
5 among their own number.

VII. That the board of directors may call for the
2 sums subscribed as stock in said company, in such en-

3 stalments as the interest of said company may in their
4 opinion require: the call for each payment shall be pub-
5 lished in one or more newspapers for the space of one
6 month before the day of payment; and on failure of any
7 stockholder to pay each instalment as thus required, the
8 directors may sell at public auction, on a previous notice
9 of ten days, for cash, all the stock subscribed for in said
10 company by such stockholder, and convey the same to the
11 purchaser at said sale; and if said sale of stock do not
12 produce a sum sufficient to pay off the incidental expen-
13 ses of the sale, and the entire amount owing by such
14 stockholder to the company for such subscription of stock,
15 then and in that case the whole of such balance shall be
16 held as due at once to the company, and may be recover-
17 ed of such stockholder, or his executors, administrators or
18 assigns, at the suit of said company, either by summary
19 motion in any Court of superior jurisdiction in the coun-
20 ty where the delinquent resides, on previous notice of ten
21 days to said subscriber, or by the action of assumpsit in
22 any Court of competent jurisdiction, or by warrant before
23 a justice of the peace where the sum does not exceed
24 one hundred dollars; and in all cases of assignment of
25 stock before the whole amount has been paid to the com-
26 pany, then for all such sums due on such stock, both the
27 original subscribers and the first, and all subsequent as-
28 signees shall be liable to the company, and the same may
29 be recovered as above described.

VIII. That the debt of stockholders due to the compa-
2 ny for stock therein, either as original proprietor or as
3 first or subsequent assignee, shall be considered as of
4 equal dignity with judgments in the distribution of assets
5 of a deceased stockholder by his legal representatives.

IX. That the said company shall issue certificates of
2 stock to its members; and said stock may be transferred in
3 such manner and form as may be directed by the by-laws
4 of the company.

X. That said company may at any time increase its

2 capital stock to a sum sufficient to complete said road, and
3 not exceeding the additional sum of one million of dol-
4 lars, making in the whole two millions, either by opening
5 books for the subscription of new stock or borrowing mon-
6 ey on the credit of the company and on the mortgage of
7 its charter and works; and the manner in which the same
8 shall be done in either case, shall be prescribed by the
9 stockholders.

XI. That the company shall have power, and may
2 proceed to construct, as speedily as possible, a Railroad
3 with one or more tracks, from the Tennessee line on the
4 Tennessee river, to the line of the State of Georgia, in
5 the said county of Macon; said company shall have the
6 privilege of using any section of the said road construct-
7 ed by them, before the whole of said road shall be com-
8 pleted.

XII. That all contracts or agreements authenticated by
2 the President and Secretary of the board to be appointed
3 by the directors, shall be binding on the company, with
4 or without a seal; such a mode of authentication shall be
5 used as the company by their by-laws may adopt.

XIII. That said company may purchase, have and
2 hold, in fee or for a term of years, any land, tenements
3 or hereditaments which may be necessary for the said
4 road, or for the erection of depositories, store houses,
5 houses for the officers, servants or agents, of the compa-
6 ny, or for work-shops or foundaries to be used by the
7 company, or for procuring stone or other materials neces-
8 sary to the construction of the road, or effecting trans-
9 portation, and for no other purpose whatever.

XIV. That the company shall have the right, when
2 necessary, to construct the said road across any public
3 road, or along the side of any public road; *provided*,
4 that the said company shall not obstruct any public road,
5 without first constructing one equally as good, and as
6 convenient.

XV. That when any lands or right of way may be re-

quired by said company, for the purpose of constructing their road, and for want of agreement as to the value thereof, or from any other cause the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by the County Court of the said county of Macon, a majority of the justices being present. In making the said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners, in consequence of the land or the right of way being surrendered, and the benefit and advantage he, she, or they may receive from the erection of the said road, and shall state particularly the value and amount of each; and the excess of loss and damage, over and above the advantage and benefit, shall form the measure of valuation of said land or right of way; *provided, nevertheless*, that if any person or persons, over whose land the road may pass, or the company should be dissatisfied with the valuation of the said commissioners, then, and in that case, either party may have an appeal to the Superior Court. The proceedings of said commissioners, accompanied with a full description of the said land, or right of way, shall be returned, under the hands and seals of a majority of the commissioners, to the court from which the commission issued, there to remain a matter of record. And the lands or right of way so valued by the commissioners, shall vest in the said company, so long as the same shall be used for the purposes of said Railroad, so soon as the valuation may be paid, or when refused, may have been tendered: *Provided*, that on application for the appointment of commissioners under this section, it shall be made to appear to the satisfaction of the court, that at least ten days previous notice has been given by the applicant to the owner or owners of land proposed to be condemned: *Provided further*, that the right of condemnation shall not authorize the said company to in-

39 vade the dwelling house, yard or garden, of any individ-
40 ual, without his consent.

XVI. That the right of said company to condemn
2 lands, in the manner described in the 15th section of this
3 act, shall extend to the condemning only one hundred
4 feet on each side of the main track of the road, measur-
5 ing from the centre of the same, unless in case of deep
6 cuts and fillings, when said company shall have power to
7 condemn as much in addition thereto, as may be necessa-
8 ry for the purpose of constructing said road; and the
9 compaay, in like manner, shall also have power to con-
10 demn any appropriate lands, for constructing and build-
11 ing of depots, shops, ware houses, buildings for servants,
12 agents, and persons employed on the road, not exceeding
13 two acres in one lot or station.

XVII. That all lands on which the road may be lo-
2 cated not heretofore granted by the State, within one hun-
3 dred feet of the centre of the road which may be con-
4 structed by said company, shall vest in the company, as
5 soon as the line of the road is definitely laid out through
6 it, and any grant of said land thereafter shall be void.

XVIII. That the said company shall have the exclusive
2 right of conveyance or transportation of persons, goods,
3 merchandize and produce, over said road, at such charges
4 as may be fixed on by a majority of the directors.

XIX. That said company shall have the right, and it
2 shall be their duty to take, at the store houses they may
3 establish on, or annex to their Railroad or the branches
4 thereof, all goods, wares, merchandize and produce, in-
5 tended for transportation, prescribe the rules of priority
6 and charge, and receive such just and reasonable compen-
7 sation for storage, as they by rules may establish, which
8 they shall cause to be published, or, as may be fixed by
9 agreement.

XX. That if any person shall intrude upon the said
2 Railroad by any manner of use thereof, or of the rights
3 and privileges connected therewith, without their permis-

4 sion, and contrary to the will of the said company, he,
5 she, or they may be indicted for misdemeanor, and, upon
6 conviction, fined and imprisoned by any court of compe-
7 tent jurisdiction.

XXI. That if any person shall wilfully and malicious-
2 ly destroy, or in any manner damage or obstruct, or shall
3 wilfully or maliciously cause, or aid or assist, or counsel
4 and advise any other person or persons, to destroy, or in
5 any manner injure or obstruct the said railroad, or any
6 bridge or vehicle used for or in the transportation there-
7 on, any water tank, ware house, or any other property of
8 said company, such person or persons so offending, shall
9 be liable to be indicted therefor, and, on conviction, shall
10 be imprisoned not more than six, nor less than one month,
11 and pay a fine not exceeding five hundred dollars, at the
12 discretion of the court before which said conviction shall
13 take place, and shall be further liable to pay expenses of
14 repairing the same.

XXII. That the profits of the company, or so much there-
2 of as the board of directors may deem advisable, shall,
3 when the affairs of the company will permit, be semi-an-
4 nually divided among the stockholders, in proportion to
5 the stock each may own.

XXIII. That notice of process upon the principal a-
2 gent of said company, or the president or any of the di-
3 rectors thereof, shall be deemed and taken to be due and
4 lawful notice of service of process upon the company.

XXIV. That said company shall have power to con-
2 struct branches to said road, or to connect with any other
3 Railroad that may be constructed; and any contract that
4 may be entered into with any other Railroad company,
5 by the President and directors of said company, after the
6 consent of a majority of the stockholders having been
7 first obtained, shall be binding on said company.

XXV. That all the officers of the company, and ser-
2 vants and persons in the actual employment of the com-
3 pany, be, and they are hereby exempted from performing
4 ordinary militia duty, working on public roads, and ser-
5 ving as jurors.

XXVI. That it shall be the duty of said company, in
2 case of war or insurrection, to transport the troops in the
3 employment of the State, and their munitions of war, free
4 of cost to the State.

A BILL

TO ENCOURAGE

THE INVESTMENT OF CAPITAL

FOR

MINING AND MANUFACTURING

PURPOSES.



RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. BYNUM. Passed first reading, referred to committee on corporations, and ordered to be printed.]

A BILL

To encourage the investment of capital for mining and manufacturing purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful hereafter for any number of persons, not less than five, desirous to engage in the business of mining or to establish any manufactory at any place within this State, and wishing to become incorporated for convenience in raising the necessary capital, and in conducting the business, to become incorporated in the manner following: such persons shall, by articles of agreement, under their own hands and seals, acknowledge, before the Clerk of the County Court of the county where such mining is to be conducted, or manufactory established, to be recorded by him in a book to be kept for that purpose, determine and state as follows: 1st, the corporate name; 2nd, the business proposed; 3d, the place where it is proposed to be carried on; 4th, the amount of capital; 5th, the number of shares, and the amount of each, not less than fifty dollars; 6th, the length of time desired, not to exceed thirty years; and 7th, the names of persons who have subscribed, the shares by them respectively taken, and the amount paid in cash on each share. The money so paid on each share shall not be less than one dollar per share, and shall not in the whole be less than one hundred dollars, and shall be paid to the Clerk of the County Court of the proper county, and the certificate of the Clerk acknowledging said payment shall be endorsed on the said article of agreement.

II. *Be it further enacted*, That on filing the said articles of agreement acknowledged and recorded as aforesaid, with the Clerk's receipt endorsed as aforesaid, in the office of the Secretary of State, it shall be the duty of the Governor to issue letters patent, under the great Seal of the State, declaring said persons and their successors, a corporation according to the terms prescribed in said articles of agreement, and to cause notice thereof to be given in some newspaper published in the county where such manufactory is proposed to be established or mining conducted; which notice shall set forth the capital of said company, number and value of shares, and the substance of the said articles of agreement, and when no newspaper is published in said county, then in some newspaper published in some neighboring county.

III. *Be it further enacted*, That by virtue of said letters patent, the said persons shall become and be a corporation according to the terms of said articles of agreement, by the name and style set forth in said agreement, and as such may sue and be sued, plead and be pleaded, in all Courts and before all tribunals having jurisdiction of the subject matter; have and use a common seal, alter and renew the same at pleasure, make all by-laws rules and regulations, not inconsistent with the laws of this State, necessary for the well ordering and conducting the affairs of said corporation, and may take and hold or sell all such real estate as may be necessary for the transaction of their business, or for the security or collection of their debts, and shall further have all the powers granted and be subject to all the liabilities in chapter 26, Revised Statutes, respecting corporations.

IV. *Be it further enacted*, That it shall not be lawful for any company that may organize under this act to declare any dividend when the debts of the company exceed their solvent credits.

V. *Be it further enacted*, That it shall be the duty of
2 said company, on or before the expiration of each year
3 after the organization of any company under this act, to
4 cause to be made an exhibit of the amount of the receipts
5 and disbursements of the company for the year next
6 preceding, as also the liabilities and credits of said com-
7 pany, which exhibit shall be under the oath of the prop-
8 er officer of said company and filed in the office of the
9 Clerk of the County Court of the county wherein said
11 company may have established their business, which ex-
12 hibit shall at all times be subjected to the inspection of the
13 public by said Clerk.

VI. *Be it further enacted*, That so soon as said corpo-
2 ration shall be actually organized by the election of of-
3 ficers, the money paid to the Clerk as above required,
4 shall, by him, be paid over to the proper officer thereof.

VII. *Be it further enacted*, That the letters patent of
2 the Governor, shall in all cases, in all Courts and jurisdic-
3 tions in this State, be deemed and taken as *prima facie*
4 evidence of the regular incorporation and organization
5 of the company to which such letters patent may be is-
6 sued, and in all questions of pleading on any suit to which
7 said company may be a party, such letters patent shall
8 have the full effect of an act of incorporation by a public
9 law of the State.

VIII. *Be it further enacted*, That the Secretary of State
2 shall record in books to be kept for the purpose, all letters
3 patent so issued as above, and in all cases when the crigi-
4 nal letters patent are lost or mislaid, copies, under the
5 hand of the Secretary, shall be admitted as evidence in all
6 controversies at law, in like manner as the originals.

IX. *Be it further enacted*, That no corporation con-
2 stituted by virtue of this act shall engage in the business
3 of banking, except that it shall be lawful for said compa-

4 ny to issue, and to take, and, when necessary, to endorse
5 all such bonds, notes and bills of exchange as may be
6 necessary and usual in their particular trade.

X. *Be it further enacted*, That this act shall be in
2 force from and after its ratification.

[HOUSE DOC. 32.]

A B I L L

TO APPOINT

TAX COLLECTORS

FOR

North Carolina.

R A L E I G H :

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. J. HAYES. Read first time and passed,
and, on motion of Mr. Sloan, ordered to be printed.]

A BILL

To appoint Tax Collectors for the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter there shall be a Tax Collector elected in each and every County in this State, to be chosen biennially as sheriffs are now chosen, and to hold their office for the same term.

II. *Be it further enacted,* That at the next regular election for sheriffs, which shall happen on the first Thursday in August, A. D. 1852, polls shall be opened at every election precinct in each County in this State, for the purpose of electing a Tax Collector for said County; and the said election shall be held under the direction and supervision of inspectors appointed for that purpose by the County Courts of the respective Counties in the same manner that inspectors or judges of sheriffs' elections are now appointed, and said inspectors shall make due return of the several elections held under their supervision in the same manner that judges of sheriffs' elections are now required to do.

III. *Be it further enacted,* That every person who is entitled to vote for sheriff, shall likewise be entitled to vote for Tax Collector in the County in which he resides, and the person receiving the highest number of votes shall be declared duly elected, and in case two or more persons shall receive the same number of votes, the sheriff shall give the casting vote, and in no other case shall the sheriff be entitled to vote for a Tax Collector.

IV. *Be it further enacted,* That every person elected as aforesaid, shall before he enters upon the duties of his office and at the first term of the County Court which happens in his County next after his election, enter into bond in the sum of ten thousand dollars, with good and sufficient sureties to be judged of by said Court, a majority of the justices of said County being present, which said bond shall be made payable to the State of North Carolina, and conditioned for the faithful discharge of the duties of his office and that he shall diligently endeavor to collect all the taxes due to the State as well as those due to the County and to the wardens of the poor and all other public taxes that may be levied in his County; and that he shall faithfully pay over and account for the same to the authorities entitled to receive them; which said bonds so executed shall be recorded and registered and deposited for safe-keeping in the office of the clerks of the County Courts.

V. *Be it further enacted,* That every Tax Collector

2 elected by virtue of this act shall, before he enters upon
3 the duties of his office, take an oath of office, and as soon
4 he is duly installed and enters upon his duties, the sher-
5 iffs of the several Counties shall have no authority to col-
6 lect taxes, nor shall they be in any manner responsible
7 for the same.

VI. *Be it further enacted*, That the several Tax Col-
2 lectors in this State, shall in addition to the duties re-
3 quired above, also act as County trustees and treasurers
4 of Public buildings in their respective counties; and after
5 their qualification as such, there shall be no other county
6 trustees and treasurers of public buildings appointed for
7 said Counties; and said Tax Collectors, in every County,
8 shall discharge the duties required by law of County trus-
9 tees and treasurers of public buildings in their respective
10 counties; and any failure to do so on the part of
11 any Tax Collector, shall be held and deemed a breach
12 of his official bond, and suits may be brought therefor
13 upon said bond from time to time by any person
14 aggrieved, in the same manner that suits are now brought
15 upon sheriffs' bonds.

VII. *Be it further enacted*, That said Tax Collectors
2 shall and may receive by way of compensation for their
3 services rendered by virtue of this act, ——— per cent. upon
4 all monies by them collected, and ——— per cent. for all
5 monies by them disbursed in and for the benefit of their
6 respective counties, and shall render an annual statement,
7 with proper vouchers, of all their collections and disburse-
8 ments to the County Court of their respective Counties;
9 and for the taxes paid into the State treasury, they shall
10 receive such compensation as has heretofore been allow-
11 ed to sheriffs.

VIII. *Be it further enacted*, That said Tax Collectors, for the pro-
2 per discharge of their duties, shall be invested with the same pow-
3 ers, and shall be liable to the same penalties, that sheriffs were
4 heretofore invested with and liable to.

IX. *Be it further enacted*, That it shall be the duty of the clerks
2 of the county courts of the several counties, to furnish the Tax Col-
3 lector of their respective counties a duplicate of the tax list, in the
4 same manner they have heretofore furnished them to the sheriffs;
5 and it shall further be the duty of the said clerks to furnish the
6 Comptroller of Public Accounts with the name of the Tax Collector
7 of their respective counties, and also the names of the sureties to his
8 bond, at the same time that they make their annual returns to said
9 Comptroller.

X. *Be it further enacted*, That said tax collectors shall annually
2 make their settlements with the Comptroller of the State on or be-
3 fore the 1st day of October; and upon their failure to do so, they
4 shall be liable in the same manner that Sheriffs have heretofore
5 been liable.

XI. *Be it further enacted*, That all laws and clauses of laws con-
2 flicting with this act be and the same are hereby repealed.

XII. *Be it further enacted*, That this act shall be in force from
2 and after its ratification.

[HOUSE Doc. 33.]

A B I L L

TO

P R O V I D E F O R

THE

A P P O I N T M E N T O F S U P E R I N T E N D E N T S

O F

C O M M O N S C H O O L S,

A N D F O R

O T H E R P U R P O S E S.



RALEIGH:

Thos. J. Lemay, Printer to the State.
1850.

[Hovey Dec. 23]

A BILL

FOR

[Introduced by Mr. THOMAS WILSON. Read first time and passed, and, on motion of Mr. Wilson, ordered to be printed and referred to the committee on Education.]

COMMON SCHOOLS,

OTHER PURPOSES,

MAINTAINED:

Wm. J. Lamy, Printer to the State,

1860.

GENERAL ASSEMBLY OF N. C.
House Doc. Dec. 4, 1850.

A BILL

To provide for the appointment of superintendents of Common Schools, and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That there shall be appointed a superintendent of common schools for each Congressional district of this State, the said officers to be chosen by this Legislature, and to hold their offices from the first day of January next, until the second Monday of Nov. 1852.

II. *And be it further enacted,* That the said superintendents shall, as soon as possible, inform themselves of the condition of the common school system in each county of their respective districts; and shall cause suit to be brought in any court of law of any county in his district wherein any delinquent chairman resides, against such chairman and his sureties, in the name of the President and Directors of the Literary Fund, as has failed to report to the President and Directors of the Literary Fund, according to the provisions of the 18th and 19th sections of an act, passed at the session of 1844-'45, entitled "an act to consolidate and amend the acts heretofore passed on the subject of common schools;" which suits shall be prosecuted to a recovery for the balance due from such chairman, and unaccounted for by him; and

16 that said balance shall be paid over to the next succeeding
17 chairman of the county board of superintendents, to be
18 applied and accounted for by him, as other sums belonging
19 to the Literary Fund.

III. *And be it further enacted,* That it shall be the
2 duty of each superintendent to visit, as often as possible,
3 each and every school house in his district; to see that a
4 committee is chosen for every school district, and that
5 suitable houses are erected therein; to receive reports of
6 the conduion of each and every school from the chair-
7 man of the board of superintendents of each county; to
8 to use all fair means to excite and awaken the attention
9 of the people of his district to the great importancé of
10 educating their children, and to induce them to contrib-
11 ute such sums as they may see fit in aid of the public
12 fund, so as, if possible, to keep schools in said districts at
13 least ten months in every year; to make two condensed
14 and succinct reports of the common schools of each coun-
15 ty of their districts, (comprising the number of male
16 and female pupils taught, and length of time each of
17 said schools was in operation,) one copy to be deposited
18 in the clerk's office of each county, the other to be trans-
19 mitted, on or before the 2nd Monday in November in
20 each year, to the State Department at Raleigh. It shall
21 be the duty of said district superintendents to confer
22 from time to time with the teachers and committees of
23 the various school districts, receive their reports, and con-
24 sider such suggestions as they may offer for the im-
25 provemant and uniformity of the common school system.

IV. *And be it further enacted,* That in those counties
2 in which the Courts of Pleas and Quarter Sessions may
3 neglect to appoint a board of county superintendents at
4 the term held next preceding the first day of January,
5 the courts may, at any other term, (a majority of the
6 justices being present) appoint such superintendents, who

7 shall hold their offices on the conditions, and conduct
8 themselves according to the regulations of the acts now
9 in force, concerning the subject of common schools;
10 *provided*, that the respective boards, elected according
11 to the provisions of this act, be required to meet and
12 select their chairman within one month after their ap-
13 pointment.

V. *And be it further enacted*, That the beforemen-
2 tioned nine superintendents, shall meet in the City of
3 Raleigh, on the 2nd Monday of November, 1852, for the
4 purpose of conferring and comparing their experience
5 and observation of the practical operation of the free
6 school system throughout the State; shall consider the
7 causes which have prevented the success of the system,
8 and the best means of remedying its inefficiency; and
9 recommend to the next General Assembly, the most
10 feasible and suitable plan for the advancement and per-
11 fection of the same.

VI. *And be it further enacted*, That from and after
2 the passage of this act, the chairman of the board of su-
3 perintendents for each county, shall not be required to
4 make any report to the State Department, and shall be
5 allowed to retain, by way of compensation for his servi-
6 ces, not more than one and a half per cent. on the money
7 which may pass through his hands; any act or usage to
8 the contrary notwithstanding.

VII. *And be it further enacted*, That said superin-
2 tendents shall be allowed ten cents per mile, of travel to
3 and from Raleigh. And that they be allowed an annual
4 salary of dollars, to be paid semi-annually
5 by the Treasurer of the State, out of monies belonging
6 to the Literary Fund.

VIII. *And be it further enacted*, That all laws, and
2 parts of laws, preventing or interfering with the fair and

3 full operation of this act, or any part thereof, be, and the
4 same are, hereby repealed.

IX. *And be it further enacted*, That this act shall be
2 in force and take effect from and after the first day of
3 January, 1851.

[SENATE Doc. 31.]

A B I L L

TO

INCORPORATE A BANK

IN THE

TOWN OF WASHINGTON

IN THE

COUNTY OF BEAUFORT.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Senate Dec. 31]

A BILL

TO

[Introduced by Mr. GRIST. Passed first reading and referred to the Committee on Corporations, and ordered to be printed.]

IN THE

TOWN OF WASHINGTON

IN THE

COUNTY OF BEAUFORT.

RALEIGH:

Thos. J. Lantry, Printer to the State.

1880.

A BILL.

To incorporate a Bank in the town of Washington, in the county of Beaufort.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a Bank shall be established in the town of Washington, the capital stock of which shall not exceed four hundred thousand dollars, divided into shares of one hundred dollars each ; and for the purpose of receiving subscriptions for said stock, Books shall be opened on the first day of February, one thousand eight hundred and fifty-one, or within ten days after the ratification hereof, and remain open for the space of sixty days, at Washington, under the superintendence of James E. Hoyt, Frederic Grist, B. F. Hanks, Jacob VanDerveer, E. J. Warren, Isaiah Respass, R. S. Donnell, Allen Grist, S. P. Allen, Geo. Houston, Geo. H. Brown, H. A. Ellison and W. H. Willard, or a majority of them ; at Greenville, under the superintendence of Thomas Hanrahan, Charles Greene, Goold Hoyt, Edward H. Goelet and William K. Delany, or a majority of them ; and, at the same time, at such other places, and under the superintendence of such other persons, as may be designated by the commissioners appointed to receive subscriptions at Washington.

II. *Be it further enacted,* That one fifth of such shares shall be paid in gold or silver or their equivalent, to the commissioners above named, or those appointed by them, at the time of subscribing ; that another fifth shall be paid within sixty days thereafter ; that another fifth shall be paid within one hundred and twenty days thereafter ; that another fifth shall be paid within three months after the time appointed for paying the third instalment ; and

[9 the remaining fifth shall be paid within three months after
10 the time of paying the fourth instalment ; and if any
11 subscriber shall fail to pay any instalment at the time
12 stipulated, he shall pay interest thereon at the rate of six
13 per cent. per annum, and his stock shall be forfeited, and
14 may be sold by the Bank, and the proceeds applied to the
15 payment of the aforesaid deficient instalment, and he
16 shall be held responsible for the same at the option of the
17 Bank ; and the remainder, if any, of such sale, to be paid
18 over to the subscriber : *Provided*, that after the Bank
19 shall have been organized as hereinafter provided, the re-
20 maining unpaid instalments shall be paid to the directors, or
21 to their agents ; and it shall be lawful for any subscriber
22 to pay the whole of his subscription, or any greater part
23 than is hereby required, before the time limited for the
24 same ; and every subscriber so paying in advance, shall
25 have a discount at the rate of six per cent. per annum on
26 such advance, computing the same from the time when
27 payment is made, to the time when it is required to be
28 made.

III. *Be it further enacted*, That when five hundred
2 shares are subscribed, and the sum of twenty-five thou-
3 sand dollars is actually paid to the commissioners afore-
4 said, the subscribers to the said bank, their successors and
5 assignees shall be, and are hereby created, a body politic,
6 in law, and in fact, by the name and style of the
7 Bank of Washington ; and shall so continue until the
8 the first day of January, one thousand eight hundred
9 and seventy seven ; and by the name and style aforesaid,
10 they shall be and are hereby made able and capable in
11 law, to have, purchase, receive, possess, enjoy and re-
12 tain to themselves and successors, land, tenements, rents
13 hereditaments, goods, chattels and effects, and the same to
14 grant, devise, alien and dispose of ; to sue and to be sued ;
15 implead and be impleaded ; answer and be answered ; de-
16 fend and be defended, in courts of record or in any
17 place whatsoever ; and also to make, have and use a

18 common seal, and the same to break, alter or renew, at
19 their pleasure; and also to ordain, establish and put into
20 execution, such by-laws, ordinances and regulations as
21 shall seem necessary and convenient for the government
22 of said corporation; and for the making whereof, general
23 meetings of the stockholders may be called in the manner
24 hereinafter specified; and generally to do and execute
25 all acts, matters and things which a corporation and body
36 politic in law may or can lawfully execute, and be sub-
27 ject to the rules, regulations, restrictions and provisions,
28 hereinafter prescribed and declared.

IV. *Be it further enacted*, That if it shall happen,
2 when the books shall be opened as aforesaid, that a greater
3 sum than four hundred thousand dollars shall be sub-
4 scribed by individuals, or by bodies corporate, it shall be
5 lawful for the commissioners to reduce such subscrip-
6 tions, according to a scale to be by them established for
7 that purpose, to the aforesaid amount of four hundred
8 thousand dollars; *provided*, that no subscription of two
9 shares or under shall be scaled until all larger subscrip-
10 tions shall first be reduced to an equality with them;
11 and if five hundred shares should not be subscribed with-
12 in the sixty days aforesaid, the commissioners may keep
13 open the books of subscription twelve months longer, un-
14 less the same be sooner subscribed; and the directors,
15 elected as hereinafter prescribed, shall be allowed to keep
16 open the subscription books until the whole of the stock
17 shall be taken, and open and close the same previous
18 thereto, at their discretion. The commissioners appoint-
19 ed to receive subscriptions at Greenville, and those who
20 shall be appointed as herein prescribed, at other places,
21 shall pay over to the commissioners appointed herein to
22 receive subscriptions at Washington, all monies paid to
23 them on stock subscriptions, immediately after receiving
24 the same.

V. *Be it further enacted*, That as soon as five hun-
2 dred shares shall be taken in the stock of said bank, and

3 twenty-five thousand dollars paid to the commissioners
4 who keep the books, notice shall be given in the Gazette
5 published in Washington, (or in some other public man-
6 ner) and a meeting of the subscribers, to be held ten days
7 at least after the date of the notice, shall be called. If
8 at this meeting, those or their agents, who have a majori-
9 ty of votes, according to the rates hereinafter described,
10 be present, (if not, another meeting shall be called,) they
11 shall proceed to the election of seven directors, who shall
12 take charge of the books and money in the hands of the
13 commissioners, and immediately pursue the usual means
14 to put the bank in operation. The said directors shall
15 remain in office until the time which shall be prescribed
16 in the by-laws of the said corporation for the annual
17 meeting of the stockholders, or until their successors shall
18 be appointed; and at the time which shall be prescribed
19 as aforesaid in each year, or at any time thereafter, meet-
20 ings of the stockholders shall be held in the town of
21 Washington, for the purpose of electing directors, inquir-
23 ing into the affairs of the institution, and making such
24 regulations as may be deemed fit and necessary.

VI. *Be it further enacted,* That the following rules,
2 regulations and provisions, shall form and be the funda-
3 mental articles of the constitution of the corporation. A
4 meeting of the stockholders cannot be held, unless those
5 who have a majority of the whole number of votes be
6 present, and every act shall require the sanction of the
7 majority of the votes which may be present; every stock-
8 holder holding one share, and not more than two, shall
9 be entitled to one vote; for every two shares above two,
10 and not exceeding ten, one vote; for every three shares
11 above ten, and not exceeding forty, one vote; for every
12 six shares above forty, and not exceeding one hundred,
13 one vote; for every ten shares above one hundred and
14 not exceeding two hundred, one vote; for every twenty
15 shares above two hundred, one vote. After the first meet-
16 ing no share or shares shall confer a right of voting which

17 shall not have been holden three calendar months pre-
18 vious to the day of voting. Stockholders may vote at general
19 meetings and elections by proxy, the proxy himself being
20 a stockholder. None but a stockholder, who is a citizen
21 of the State, shall be eligible as a director ; and the stock-
22 holders shall appoint annually seven directors to manage
23 the bank, and when appointed, they shall choose one of
24 their number to be president of the bank, and shall man-
25 age the institution as shall seem best, unless otherwise di-
26 rected by the stockholders. Not less than three directors,
27 of whom the president shall always be one, shall consti-
28 tute a board for the transaction of business, except in
29 case of absence or sickness of the president, when he
30 may, by writing, nominate any other director to supply
31 his place. If a vacancy in the directory shall occur, by
32 death, resignation or otherwise, the remaining directors
33 shall fill such vacancy until the succeeding annual meet-
34 ing of the stockholders. A number of stockholders, not
35 less than ten, who together shall be owners of three hun-
36 dred shares or upwards, shall have power at any time to
37 call a general meeting of the stockholders, for purposes
38 relative to the institution, giving at least twenty days no-
39 tice in a public gazette, and specifying the object or ob-
40 jects of such meeting: the directors shall annually elect
41 such officers as may be deemed necessary to perform the
42 business of the bank and its branch or agency, and may
43 remove them or either of them at pleasure ; those officers
44 shall be required to give bonds with two or more securi-
45 ties in sums not less than ten thousand dollars, with a
46 condition for good behaviour and faithful performance of
47 duty ; they shall be allowed by the directors such com-
48 pensation for their services as shall be reasonable ; but
49 compensation to the president and directors shall be grant-
50 ed at the pleasure of the stockholders. The stock of said
51 corporation shall be assignable and transferable according
52 to the rules which shall be instituted in that behalf by
53 the laws and ordinances of the same.

VII. *Be it further enacted*, That the said corporation shall neither directly nor indirectly trade in any thing except bills of exchange; promissory notes and bonds, expressing on the face of them to be negotiable and payable at said bank, or its branch or agency; gold or silver bullion; or in the sale of goods really and truly pledged for money lent, and not redeemed in due time, or in goods which shall be the produce of its lands; or in mint certificates and the public debts of the United States, and of this State; *provided*, the investment in such stock shall not exceed one half of the capital stock of this bank. The said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be required for the convenient transaction of its business, or shall have been *bona fide* mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings; or purchased at sale upon judgments which shall have been obtained for such debts.

VIII. *Be it further enacted*, That the said corporation shall not take more than six per cent. per annum for or upon its loans and discounts, which interest may be received in advance at the time of discount; and the said bank shall, at no time, have in circulation more than twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property therein, in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her, or their name or names. And bills or notes which may be issued by order of the said corporation, signed by the president and countersigned by the cashier, prom-

13 ising the payment of money to any person or persons,
 14 his, her, or their order, or to bearer, though not under the
 15 seal of said corporation, shall be binding and obligatory
 16 on the same, in the like manner, and with the like force
 17 and effect, as upon any private person or persons; that is
 18 to say, those which shall be payable to any person or
 19 persons, his, her, or their order, shall be assignable by
 20 endorsement in like manner and with like effect as for-
 21 eign bills of exchange now are, and those which are pay-
 22 able to bearer, shall be negotiable and assignable by de-
 23 livery only.

X. *Be it further enacted*, That if any person or per-
 2 sons holding any note or notes of said bank shall present
 3 the same for payment and payment shall be refused, the
 4 said note or notes shall draw interest at the rate of twelve
 5 per cent. per annum from the time of said demand, and
 6 the said bank shall pay the same, any law to the contrary
 7 notwithstanding; and the holder of said note or notes of
 8 said bank, not paid on demand, may bring an action of
 9 assumpsit against one or all of the directors who may
 10 have consented to issue more than twice the capital stock
 11 paid in, in case the bank be unable to pay the amount :
 12 *provided always*, that if any note or notes of the said bank
 13 shall be presented for payment by, or for, any bank, or
 14 branch or agency of any bank, either directly or indi-
 15 rectly, it shall be lawful to pay the same, or any part
 16 thereof, with the note or notes of the bank, by, or for
 17 which, the demand shall have been made—whether made
 18 at the instance of the principal bank, its branch or agen-
 19 cy—without regard to the place where the same may
 20 have been issued, or may be payable; and any person or
 21 persons who may present the note or notes of the said
 22 bank for payment, shall, if required, state on oath, before
 23 a Justice of the Peace, whether the demand was made for
 24 any bank or branch or agency of any bank, either direct-
 25 ly or indirectly, or, in case of refusing, shall not be enti-

26 tled to recover any interest whatever on any note of said
27 bank, for which payment may be refused.

XI. *Be it further enacted*, That the directors of said
2 bank may declare semi-annual dividends of the profits
3 thereof, *provided* that no dividend shall be declared until
4 the whole amount of stock subscribed shall be paid in
5 gold or silver, or their equivalent; and if, at any time,
6 more than the real profits are divided, the directors assent-
7 ing thereto shall be responsible in their private capacities
8 to creditors who have claims against the said institution.

XII. *Be it further enacted*, That in case of an insol-
2 vency of the bank hereby created, or ultimate inability on
3 the part of this corporation to pay, the individual stock-
4 holders shall be liable to creditors in sums double the
5 amount of stock by them respectively held in said corpo-
6 ration.

XIII. *Be it further enacted*, That whenever one thou-
2 sand shares of the stock of the said bank shall have been
3 subscribed, and the sum of eighty thousand dollars shall
4 have been paid, in specie or its equivalent, the directors of
5 said bank shall have authority to establish and continue, at
6 their discretion, a branch or agency thereof at Greenville,
7 in the county of Pitt, and annually to appoint directors or
8 an agent to manage the same, under the rules and regula-
9 tions that may be prescribed by the said directors of the
10 principal bank.

XIV. *Be it further enacted*, That the officer at the
2 head of the Treasury Department of the State, shall be
3 furnished once in six months with a statement of the
4 amount of the capital stock of said corporation, and the
5 debts due the same; of the monies deposited therein; of
6 the notes in circulation; and of the cash on hand; and
7 shall have a right to inspect such general accounts, in
8 the books of the bank, as shall relate to the said statement:
9 *Provided* that this shall not be construed to a right of in-
10 specting the accounts of any private individual with the
11 bank, except the directors: And it shall be the duty of

12 the president of the bank, in the first week in Decembe
 13 in each and every year, to transmit to the General Assem
 14 bly a full statement of the condition of the bank, exhi
 15 iting the amount of capital, notes in circulation, deb
 16 due to other banks, and to what banks, deposits and al
 17 other particulars necessary to explain the debit side of the
 18 account; also, the specie on hand, notes of other banks,
 19 and what banks, bills of exchange, debts or bonds, and
 20 notes discounted, specifying in one item the amount due
 21 from stockholders, and in another, the amount due from
 22 directors, not, however, using any person's name in either
 23 case; and the real estate.

XV. *Be it further enacted*, That if any person shall
 2 falsely make, forge or counterfeit, or cause or procure to
 3 be falsely made, forged or counterfeited, or willingly aid
 4 or assist in falsely making, forging or counterfeiting any
 5 bill or note in imitation of, or purporting to be a bill or
 6 note issued by order of the president and directors of the
 7 Bank of Washington, or any order or check upon said
 8 bank or corporation, or any cashier thereof; or shall false-
 9 ly alter, or cause or procure to be falsely altered, or wil-
 10 lingly aid or assist in falsely altering any bill or note is-
 11 sued by order of the said corporation, or any order or
 12 check on said bank or any cashier thereof; or shall pass,
 13 or receive with intent to pass, utter or publish as true, any
 14 false, forged or counterfeited bill or note, purporting to
 15 be a bill or note issued by order of said corporation; or
 16 any false, forged or counterfeited check or order upon the
 17 said bank or any cashier thereof, knowing the same to
 18 be falsely forged or counterfeited; or shall pass, or re-
 19 ceive with intent to pass or publish, as true, any falsely
 20 altered check or order on said bank, or any cashier there-
 21 of, or any falsely altered bill or note issued by order of
 22 said bank, knowing the same to be falsely altered, with
 23 intent to defraud the said corporation, or any other body
 24 politic, or person or persons; every such person shall be
 25 deemed guilty of felony, and being thereof convicted by

26 due course of law, shall be imprisoned not exceeding ten
27 years, and fined not exceeding five thousand dollars.

XVI. *Be it further enacted,* That the president or
2 cashier of said bank shall annually pay into the treasury
3 of the State, twenty five cents on each share of said cap-
4 ital stock which may have been subscribed for and paid
5 in; and the first payment of said tax shall be made
6 twelve months after said bank shall have commenced op-
7 erations.

XVII. *Be it further enacted.* That if any president,
2 cashier, clerk or other officer of the aforesaid bank or its
3 branch or agency, shall knowingly, willingly, and with
4 intent to deceive, make, or cause to be made, or connive
5 at making any false return, statement, or exhibit of the
6 condition of the bank, its branch or agency, either to the
7 Treasurer of the State, to the Legislature, or to the board
8 of directors, to the principal bank or its branch or agency,
9 or to the stockholders, or to any other person or persons
10 that may be authorised by the Legislature or by the stock-
11 holders to receive the same; such president, director,
12 cashier, clerk or other officer, and all persons aiding or
13 abetting in such deception or false return, shall be liable
14 to be indicted for a misdemeanor in the Superior Courts,
15 and upon conviction, shall be fined at the discretion of
16 the court, and imprisoned not exceeding one year.

XVIII. *Be it further enacted,* That if a director
2 or any other officer, agent or servant of said corporation,
3 shall embezzle any of the funds belonging to said bank,
4 with the intent to defraud said corporation, or make false
5 entries upon the books of said bank, with intent to defraud
6 said corporation, or any other person whatsoever; said of-
7 ficer, agent or servant, shall be held and deemed guilty
8 of felony, and upon conviction thereof by due course of
9 law, shall be punished by fine at the discretion of the
10 Court, and imprisoned not exceeding five years.

XIX. *Be it further enacted,* That whenever the
2 Legislature may be of opinion that the charter of the cor-
3 poration hereby granted, shall have been violated, it may
4 be lawful, by joint resolution, to direct the attorney gen-
5 eral, with such assistant counsel as the Governor or Legis-
6 lature may think proper to engage, to issue a writ *scire*
7 *facias*, returnable before the judges of the Supreme Court,
8 calling upon said corporation to show cause why the
9 charter hereby granted shall not be forfeited, subject to

10 the same proceedings as are now prescribed by law, in
11 cases of other corporations.

XX. *Be it further enacted*, That the cashier shall
2 keep a book to contain the proceedings of the board of di-
3 rectors, the names of those present, the day and date of
4 each meeting, and shall record the yeas and nays on any
5 question, when asked for by any director. This book
6 shall be evidence in Courts of Justice; and on entering on
7 the discharge of his duties, the cashier shall take the fol-
8 lowing oath before some justice of the peace, by whom
9 it shall be returned to the office of the clerk of the Conn-
10 ty Court: "I, A. B. do solemnly swear to keep a just
11 and true record, without alterations or erasures, of the
12 transactions of the board of directors of the Bank of Wash-
13 ington, in a book kept by me for that purpose."

XXI. *Be it further enacted*, That this act shall be in
2 force from and after its ratification.

Dec. 5, 1850.

[Introduced by Mr. NIXON. Passed first reading, and referred to the Committee on the Judiciary and ordered to be printed.]

A BILL

To amend the eighty eighth Chapter of the Revised Statutes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Commissioners of Navigation for the several Ports of this State, shall be, and they are hereby authorized and empowered, from time to time, to make and establish all such rules and regulations, and to pass all such orders for their several and respective Ports, as they may deem judicious, efficient and necessary, for the the detection, apprehension or return of slaves escaping, or attempting to escape from their several ports in vessels; and that such Commissioners of Navigation be further authorized and empowered to establish, and from time to time to alter and regulate the charges and fees of the Pilots or Harbor Masters (as the case may be) of their respective Ports, for any services required of them under any rules, regulations or orders made and established by such Commissioners of Navigation concerning the detection, apprehension or return of slaves attempting to escape as aforesaid.

II. *Be it further enacted,* That hereafter the Commissioners of Navigation of the Cape Fear shall be elected on the first Monday of May, in each and every year, by the citizens who are entitled to vote for members of the House of Commons of the General Assembly of this State, who reside within the limits of the town of Wilmington as said limits are defined by an act of the General Assembly, entitled an act to extend the limits of the town of Wilmington and for other purposes," ratified on the 29th day of January, 1849; and said election shall be held by the high Sheriff of the County of New Hanover, under the same laws, rules and regulations as the election for members of the Legislature.

III. *Be it further enacted,* That all laws and clauses of laws, coming within the meaning and purview of the provisions of this act, be, and the same are hereby repealed; and that this act shall be in force from and after its ratification.

[SENATE DOC. 36.]

A BILL

TO

INCORPORATE

THE

FAYETTEVILLE AND NORTHERN

PLANK ROAD COMPANY.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. CAMERON. Passed first reading and ordered
to be printed.]

A BILL

To incorporate the Fayetteville and Northern Plank Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same.* That it shall and may be lawful to open books in the town of Fayetteville, under the direction of Hon. Robert Strange, Benjamin W. Robinson, Archibald McLean, Joel Williams, John W. Pearce, John C. Williams, Duncan G. McRae and Jesse G. Shepherd, and at such other places, and under the direction of such other persons, as the above commissioners shall direct, for the purpose of receiving subscriptions, to an amount not exceeding one hundred thousand dollars, in shares of fifty dollars each, for the purpose of constructing a plank road, from the town of Fayetteville to the city of Raleigh, by the most practicable route, to be determined by the said company, after the same shall have been formed.

II. That the times and places for receiving subscriptions, shall be advertised in one or more newspapers, in the town of Fayetteville, and the books for receiving the same, shall not be closed in less than twenty days; and the said commissioners shall have power to open the said books, from time to time, until the whole number of shares be subscribed.

III. That when the sum of twenty thousand dollars shall be subscribed for, in manner aforesaid, the subscribers, their executors, administrators or assigns, shall be, and they are hereby declared, to be incorporated into a company, by the name and style, of the "Fayetteville and Northern Plank Road Company," and by that name, shall

7 be capable in law of purchasing, holding, selling, leasing
 8 and conveying estates, real and personal and mixed, so far
 9 as shall be necessary for the purposes of said company
 10 and shall have perpetual succession, and by said corporate
 11 name, may sue and be sued, and may have a common
 12 seal, which they shall have power to alter and renew at
 13 pleasure, and shall have and enjoy and may exercise all
 14 the powers, rights and privileges, which other corporate
 15 bodies may lawfully do for the purposes mentioned in this
 16 act, and may make all such by-laws, rules and regulations,
 17 not inconsistent with the laws of this State, as shall be
 18 necessary for the well ordering and conducting the affairs
 19 of said company.

IV. That when the sum of twenty thousand dollars shall
 2 have been subscribed, the commissioners shall give public
 3 notice of the same, and call a general meeting of the sub-
 4 scribers, at such convenient time and place, as they shall
 5 think proper, (giving at least twenty days notice) for the
 6 purpose of organising said company &c.

V. That the subscribers at their general meeting before
 2 directed, and the proprietors of stock at every annual
 3 meeting thereafter, (a majority of such stockholders being
 4 present either in person or by proxy,) shall elect a presi-
 5 dent, and seven directors, who shall continue in office,
 6 (unless sooner removed) until the next annual meeting af-
 7 ter their election, and until their successors shall be elect-
 8 ed, but the said president and directors, or any of them,
 9 may at any time be removed, and the vacancy thereby
 10 occasioned, be filled by a majority of the votes, given at
 11 any general meeting. The president, with any three or
 12 more of the directors, or in the event of the sickness, ab-
 13 sence or disability of the president, any five or more of
 14 the directors, may appoint one of their own body presi-
 15 dent *pro tem*, and shall constitute a board for the transac-
 16 tion of business. In cases of vacancy in the office of
 17 president or any director, happening from death, resigna-
 18 tion or otherwise, such vacancy may be supplied by
 19 the appointment of the board until the next annual meet-
 20 ing.

VI. The president and directors of said company shall
 2 be, and they are hereby invested, with all the rights and
 3 powers, necessary for the construction, repair and main-
 4 taining of a plank road to be located as aforesaid, with a
 5 branch to the town of Smithfield, and such other branch-
 6 es as the stockholders may deem necessary, and may
 7 cause to be made, and also to make and construct all
 8 works whatsoever, which may be necessary and expe-
 9 dient, in order to the proper completion of the said road,
 10 and all its branches, or of any part thereof.

VII. The said president and directors shall have pow-
 2 er to make contracts with any person or persons, on be-
 3 half of the company, for making the said plank road, or
 4 any part thereof, and performing all other things respect-
 5 ing the same, which they shall judge necessary and prop-
 6 er, and to require from the subscribers from time to time,
 7 such advances of money, on their respective shares, as
 8 the wants of the company may demand, until the whole
 9 of their subscriptions shall be paid—to call on any emer-
 10 gency, a general meeting of the stockholders, and to ap-
 11 point such managers and toll gatherers, as they may deem
 12 necessary, and to transact all the business of the compa-
 13 ny, during the intervals between the general meetings of
 14 the stockholders.

VIII. That the president and directors, their officers
 2 or agents, may agree with the owners of any land, over
 3 which the said road or any of its branches is intended to
 4 pass, for the purchase thereof, and in case of disagree-
 5 ment; or if the owner shall be *femme covert*; under age,
 6 or *non compos* or out of the State, on application to any two
 7 justices of the peace, of the county, where the lands lie—
 8 the justices shall issue their warrant to the sheriff, of said
 9 county, to summon eighteen freeholders, disinterested and
 10 unconnected with the parties, to meet on the land to be
 11 valued, on a day named in the warrant, not less than ten,
 12 nor more than twenty days, thereafter, and the sheriff,
 13 on receipt of the warrant, shall summon the freeholders.

14 accordingly, and when met, shall draw twelve of them,
 15 who after being duly sworn, will impartially value the
 16 land in question, and consider the damage, *if any*, the
 17 owner thereof may sustain, and the inquisition so taken
 18 shall be signed by the jury and the sheriff, and be re-
 19 turned to the clerk of the County Court, of the said coun-
 20 ty to be by him recorded—and in all cases the jury are
 21 hereby directed, to describe the land so valued, and such
 22 valuation shall be conclusive, and the president and direc-
 23 tors shall pay the sum so assessed to the owner, or his le-
 24 gal representative, and if neither can be found in this
 25 State, or if they should refuse to receive the money—
 26 then to the Clerk of the County Court of the county in
 27 which the report of the jury is recorded, and on the pay-
 28 ment thereof, the said corporation, shall be seised in fee
 29 of the land as fully and absolutely as if it had been con-
 30 veyed to them by the owners.

IX. That as soon as five miles in extent shall have
 2 been constructed, it shall and may be lawful for the presi-
 3 dent and directors of said company to erect toll gates, and
 4 collect such toll, from persons using said road, or any
 5 part thereof, as may be determined by the said president
 6 and directors, and in like proportion for a greater extent
 7 of road, and if any person or persons, shall use any part
 8 of said road, and shall refuse to pay the toll, or shall at-
 9 tempt to pass the toll gate, or any place designated for the
 10 collection of toll, or shall drive over said road any wheel car-
 11 riage, or animal liable to toll, without paying the same
 12 when demanded, he, she or they, shall be liable to a fine of
 13 five dollars, which fine may be recovered by a warrant
 14 before any justice of the peace of the county wherein
 15 such part of the road so used is located,

X. That if any person or persons, shall wilfully or
 2 maliciously injure, or in any manner damage or obstruct,
 3 or shall wilfully or maliciously cause, or aid, or assist a
 4 counsel and advise, any other person, or persons, to in-
 5 jure, damage or obstruct the said plank road, toll gate, toll

6 house or bridge, such person or persons so offending, shall
 7 be liable to pay all such damage as the said company
 8 may sustain by reason of said damage or obstruction,
 9 and the said person or persons, shall be further liable to
 10 indictment, and on conviction, shall be fined or imprisoned,
 11 at the discretion of the Court, before which said convic-
 12 tion shall take place.

XI. That whenever in the construction of said plank
 2 road, it shall be necessary to cross, intersect or use any
 3 established road or way, it shall be lawful for the presi-
 4 dent and directors to do so—first making as good a road
 5 (as the portion proposed to be used;) as near the part so
 6 taken as can conveniently be done, but nothing herein
 7 contained, shall be so construed, as to make it incumbent
 8 on the company, to keep in repair the portion of any road
 9 which may have been changed as aforesaid.

XII. That if the capital stock of the company hereby
 2 incorporated shall be found at any time insufficient for the
 3 purposes of this act, it shall and may be lawful for the
 4 stockholders in general meeting, from time to time, to in-
 5 crease the capital stock, to an amount not exceeding two
 6 hundred thousand dollars; by the addition of as many
 7 shares, as they may deem necessary, and the subscribers
 8 for such additional shares, of the capital stock, in said
 9 company, are hereby declared to be thenceforward incor-
 10 porated into the said company, with all the privileges
 11 and advantages, and subject to the liabilities of the original
 12 stockholders.

XIII. That if any stockholder shall fail to pay the
 2 sum required of him by the president and directors with-
 3 in thirty days after the same shall have been demanded,
 4 it shall and may be lawful for the said president and di-
 5 rectors, to sell at public auction, and to convey to the
 6 purchaser, the share or shares, of such stockholder so fail-
 7 ing or refusing, first giving ten days notice of the time
 8 and place of sale, and if the said sale shall not produce
 9 the sum required to be advanced with all incidental

10 charges attending the sale, then the president and direct-
 11 ors may recover the balance of the original stockholder
 12 his assignee, administrator or executor, by suit in any
 13 Court of record, or by warrant, before any justice of the
 14 peace of the county of which such stockholder is a resi-
 15 dent; and the purchaser of any such stock shall be sub-
 16 ject to the same rules and regulations as the original pro-
 17 prietor.

XIV. That this act, shall be in force from and after the
 2 ratification thereof, and shall be regarded as a public act,
 3 and be continued in force for thirty years.

A BILL

TO

PREVENT FRAUDULENT CONVEYANCE

OF

PROPERTY, &c.

Dec. 7.

[Introduced by Mr. RAYNER. Read first time and passed, and on motion of Mr. Rayner referred to Committee on judiciary, and ordered to be printed.]

A BILL

To prevent the fraudulent conveyance of property, and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That, hereafter, when any debtor is arrested under a ca. sa. and shall enter into bond for his or her appearance at the next succeeding Court, as now provided by law, and shall make his or her appearance in open Court for the purpose of taking the oath for the benefit of insolvent debtors, such oath, and schedule of*

9 property to be rendered, as now provided by law, shall
10 have reference to the time of the service of such *ca. sa.*
11 and not to the time of taking the oath, and the oath to be
12 taken shall be so administered by the clerk.

II. *Be it further enacted,* That all property or effects
2 which any person arrested under a *ca. sa.* may own at
3 the time of the service of such writ (except that which is
4 now exempted by law from execution) shall be held and
5 deemed as bound under the same, for the benefit of the
6 creditor at whose instance the *ca. sa.* may be sued out;
7 and any property transferred or money paid out, in dis-
8 charge of any debt contracted before the service of such
9 *ca. sa.* to a third person, between the time of the service
10 of such writ, and the time of appearing in Court to take
11 the oath as aforesaid, shall be held and deemed as fraudu-
12 lent, and may be given in evidence in trying any issue of
13 fraud to be submitted to the jury.

III. *Be it further enacted,* That upon the finding by the
2 jury, that said debtor has so transferred his or her proper-
3 ty between the time of the service of the *ca. sa.* and the
4 time of appearing to take the oath as aforesaid, then the
5 property so transferred shall be held as liable to the debt
6 of the person suing out such *ca. sa.* no matter in whose
7 possession such property may be found; and such finding
8 by the jury shall be sufficient grounds for the Court to
9 refuse the administering of the said oath.

IV. *Be it further enacted,* That the finding by the
2 jury, that said debtor has paid out to a third person any
3 money, between the service of the *ca. sa.* and the time
4 of appearing to take the oath, in discharge of any debt
5 contracted before the service of said writ, shall be held
6 and deemed by the Court sufficient grounds for refusing
7 to allow said debtor to take the oath as aforesaid.

[HOUSE DOC. 38.]

REPORT

OF THE

MINORITY OF THE COMMITTEE

ON

AMENDMENTS TO THE CONSTITUTION,

WITH

A B I L L.



RALEIGH:

Thos. J. Lemay, Printer to the State.
1850.

House of Commons, Dec. 5, 1850.

[The annexed bill was reported by Mr. A. G. FOSTER, (in the minority) from the committee on Amendments to the Constitution; read the first time and passed, and, on motion of Mr. Avery, ordered to be printed, together with the accompanying report, and laid on the table.]

MINORITY REPORT

The Committee on Amendments of the Constitution, &c., consisting of J. R. McLean, George S. Stevenson, W. J. Blow, Thomas Ruffin, Jr. and the undersigned, having reported a bill carrying out the views of said committee except those of the undersigned, proposing to amend the Constitution of the State in one particular alone, to-wit: to allow all persons who are now entitled to vote for Members of the House of Commons, to vote also for Members of the Senate, and the undersigned being thoroughly satisfied that a large and overwhelming majority of the freemen of North Carolina are anxious for other and important constitutional amendments and deeply impressed with the importance of all parties, at all times and under all circumstances, recognizing the sovereignty of the people, begs leave to submit a report and the accompanying bill.

This duty he feels the more imperative upon him for the following reasons :

First, because the freemen of North Carolina, *under the principles of the bill* reported by a majority of the Committee, have *never had* like those of other States an opportunity of framing or since revising, by delegates untrammelled, a Constitution for themselves.

Second, The representative being merely the agent and servant of the people, has no right to dictate to those who are his masters what amendments to their Constitution they shall have and what not—what grievances shall be redressed and what not—for such would be in direct contravention of the fundamental truths that “all political power is vested in and derived from the people only,” and that “*the people* of this State ought to have the sole and exclusive right of regulating the internal government police thereof.”

Thirdly. It is a fact well known, that a large portion, if not a majority, of the people of North Carolina, desire a thorough reform in their constitution, embracing the manner of electing and the term of their State Senators, the election of a Lieutenant Governor, of Judges and other State officers; and for their representatives to refuse to allow them an opportunity of expressing their wishes, upon these subjects, would be, *on their part*, an adoption of the trans-atlantic doctrine, that “the people are incapable of self-government.”

Fourthly. All amendments to the Constitution and every change in the organic law of a great State, such as ours, should be discussed and decided *by the people* themselves—

their minds being directed to and occupied by that question alone, separate and distinct from any other—particularly, if that other be of a *party character*, or connected with *party triumphs* or *party success*.

Fifthly. Amendments to the Constitution, as provided for by Legislative enactments, are likely to be by peace-meal and to keep the popular mind for a long time unnecessarily agitated by the discussion of Constitutional questions.

Sixthly. Amendments to the Constitution emanating from Delegates, elected by the *people*, to reflect their opinions and wishes upon *Constitutional questions alone*, would be more likely to be permanent and to secure their respect, affection and confidence.

The undersigned being well aware that unfortunate sectional differences exist upon this as well as other State questions has in the accompanying bill, by way of preventing any well grounded cause of complaint, made the basis of representation, as it exists for the election of Members to the House of Commons, the basis of representation in electing Delegates to the Convention proposed.

Respectfully submitted,

ALFRED G. FOSTER.

A BILL concerning a Convention to amend the Constitution
of the State of North-Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Court of Pleas and Quarter Sessions of each and every county in the State, at the first term that shall be held after the last day of March, one thousand, eight hundred and fifty one, shall appoint two inspectors to superintend the polls to be opened at each and every election precinct in said counties, for ascertaining, by ballot, the will of the freemen of North Carolina, relative to the meeting of a State Convention: and if any court or courts shall fail to make such appointments, or if any inspector so appointed shall fail to act, it shall be the duty of the Sheriff, or the person acting as his deputy on such occasion, with the advice of one Justice of the Peace, or if none present, with the advice of two freeholders, to appoint an inspector or inspectors in the place of him or them who failed to act, which inspectors, when duly sworn by some Justice of the Peace or freeholder to perform the duties of the place with fidelity, shall have the same authority as if appointed by the court.

II. *Be it further enacted,* That it shall be the duty of the sheriffs of the respective counties in this State to open polls at the several election precincts, in said counties, on the first Thursday in August next, when and where all persons qualified by the Constitution to vote for Members of the House of Commons, may vote for or against a State Convention, those who wish a Convention, voting with a written or printed ticket "Convention," and those who do not want a Convention voting in the same way "No Convention" or "Against Convention."

III. *Be it further enacted,* That it shall be the duty of the Sheriffs to make duplicate statements of the polls in their respective counties, sworn to before the Clerk of the County court, one copy of which shall be deposited in said Clerk's office and the other transmitted to the Governor of the State, at Raleigh, within twenty days after the election.

IV. *Be it further enacted,* That it shall be the duty of the Governor as soon as he shall have received the returns of the sheriffs in the presence of the Secretary of State,

4 Publc Treasurer and Comptroller, to compare the number
5 of votes for and against a Convention; and if it shall ap-
6 pear that a majority of the votes polled are in favor of it,
7 he shall forthwith publish a proclamation of the fact in
8 such newspapers as he may think proper, and he shall is-
9 sue a writ of election to every sheriff of the State, re-
10 quiring him to open polls for the election of delegates in
11 the Convention, at the same places, on the first Thursday
12 in October next, under the same rules and regulations as
13 prescribed for holding other State elections.

V. *Be it further enacted*, That the same persons who
2 were appointed to hold the polls, in taking the vote on
3 Convention, shall hold them for the election of Delegates:
4 *Provided*, That if any of said inspectors shall fail to at-
5 tend or act, the Sheriffs and their deputies shall supply
6 their places in the manner herein before pointed out.

VI. *Be it further enacted*, That the several county
2 courts shall allow the sheriffs the same compensation
3 for holding the last named election for delegates usual-
4 ly allowed for holding other State elections; and if any
5 sheriff or other officer appointed to hold said elections,
6 shall fail to comply with the requisitions of this act, he
7 shall be liable to a fine of one thousand dollars, recover-
8 able before any competent jurisdiction, to the use of the
9 county whose officer he is, in an action of debt, in the
10 name of the State; and it shall be the duty of the solici-
11 tors to prosecute such suits.

VII. *Be it further enacted*, That all persons qualified to
2 vote for members of the House of Commons under the
3 present Constitution, shall be entitled to vote for mem-
4 bers to said convention; and all free white men of the age
5 of twenty-one years, who shall have been resident in the
6 State one year previous to, and shall continue to be so
7 resident at the time of election, shall be eligible to a seat
8 in said convention.

VIII. *Be it further enacted*, That each county in this
2 State, shall be entitled to select the same number of del-
3 egates to said convention, that said county is entitled to
3 members of the House of Commons in the General As-
4 sembly, and no more.

IX. *Be it further enacted*, That if any vacancy shall oc-
2 cur in any county delegation by death or otherwise, the
3 Governor shall forthwith issue a writ to supply the vacan-
4 cy. And the delegates shall convene in the Capitol in
5 the city of Raleigh, or near thereto, on the third Mon-

6 day in November next; and provided that a quorum does
 7 not attend on that day, the delegates may adjourn from
 8 day to day until a quorum is present; and a majority of
 9 delegates elected shall constitute a quorum to do busi-
 10 ness.

X. *Be it further enacted*, That the Public Treasurer
 2 be and he is hereby authorized to pay, upon the warrant
 3 of the Governor, such sums of money as may be neces-
 4 sary for the contingent charges of the convention, and
 5 also to pay each member one dollar and fifty cents per
 6 day during his attendance thereon, and five cents for eve-
 7 ry mile he may travel to and from the convention.

XI. *Be it further enacted*, That it shall be the duty of
 2 the Governor, immediately after the ratification of this
 3 act, to transmit a copy to each county court clerk in this
 4 State, and to cause it to be published until the meeting
 5 of the convention in the newspapers of the State.

XII. *Be it further enacted*, That the said convention,
 2 after having adopted amendments or alterations to the
 3 constitution, shall prescribe the mode for the ratification
 4 of the same by the people, and shall prescribe all neces-
 5 sary ordinances and regulations for the purpose of giving
 6 full operation and effect to the Constitution as altered
 7 and amended.

Dec. 2nd, 1850.

[Introduced by Mr. FLEMMING. Read first time and passed, and on motion of Mr. McLean, referred to committee on amendments to Constitution.]

Dec. 5th, 1850.

Read second time, and on motion of Mr. Flemming, ordered to be printed and laid on the table.

A BILL

Calling a Convention to amend the Constitution.

Whereas, much dissatisfaction prevails among a large portion of our citizens, in consequence of what is believed to be objectionable features in our present Constitution, in regard to both State and national policy: and, whereas, it is desirable to allay this discontent and secure confidence in our government by the citizens thereof: Therefore,

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the Governor of this State, and he is hereby directed to issue his proclamation on or before the first day of April next, directed to the sheriffs or coroners of their respective counties throughout the State, directing and commanding them to open polls at the general precinct, in each county on the first Thursday in August next, (it being the usual time of electing members of Congress,) for the purpose of ascertaining the sense of the people of this State, upon the propriety of holding a Convention.

II. *Be it further enacted,* That it shall be the duty of the several county courts to appoint judges to hold said election, and take the sense of the people upon this subject, at their usual time of appointing judges to hold their Congressional elections, and upon the failure of any of the courts to make such appointment, it shall be the duty of the sheriff or coroner, as the case may be, to appoint two freeholders to hold the same; and for failure of any sheriff or coroner to comply with this act, he shall incur a penalty of one hundred dollars.

III. *Be it further enacted,* That under the provisions of this act, all persons desiring to vote, and who are now by law entitled to vote for members of the most numerous branch of the General Assembly, shall be entitled to

5 vote in said election, and that all persons voting, shall
6 cast in a paper or parchment upon which shall be written
7 or printed, *Convention or no Convention*, and nothing
8 more.

IV. *Be it further enacted*, That the judges of the
2 several election precincts; shall return to the Clerks of
3 their respective counties under seal, a full entire state-
4 ment of the number of votes cast, with the names of the
5 persons voting, carefully distinguishing the number voting
6 *Convention*, from those voting *no Convention*, and un-
7 der the same restriction they are now required by law,
8 and return the vote for Governor, said returns to be open-
9 ed and compared at the respective Court Houses in each
10 county on the day after said election, between the hours
11 of ten and four o'clock, by the clerk, in the presence of
12 the sheriff, and a full statement thereof delivered to the
13 sheriff by said clerk under seal of office.

V. *Be it further enacted*, That within ten days from
2 the day of said election, it shall be the duty of the sheriff
3 or coroner as the case may be, to whom such certificate
4 has been issued by the clerk, to make return thereof to
5 the Secretary of State, under the same rules and regula-
6 tions that they are now required by law to make return
7 in the election for Governor.

VI. *Be it further enacted*, That it shall be the duty
2 of the Secretary of State, in the presence of the Governor,
3 on or before the first day of September next, to open and
4 compare all such returns and deliver to the Governor un-
5 der seal of the State a certificate of the entire result of
6 said vote, and shall it be made appear from such cer-
7 tificate that a majority of the whole number of votes cast,
8 shall be in favor of convention, then, and in that case
9 it shall be the duty of the Governor to issue his procla-
10 mation, to the several sheriffs or coroners throughout
11 the State, to cause elections to be held in their respective
12 counties for delegates to said convention, said election to
13 be held at such time in the month of November next as
14 his Excellency may designate.

VII. *Be it further enacted*, That the number of dele-
2 gates to said convention, shall correspond with the pre-
3 sent number of the House of Commons, and receive
4 their appointment in the same ratio from the respective
5 counties, no county being entitled to less than one del-
6 egate.

VIII. *Be it further enacted*, That said convention
2 thus constituted, shall convene in the city of Raleigh on

3 the 2d Monday in January 1852, and have full power
4 and authority to organize their own body, set upon their
5 own adjournments, and make such reforms as they in their
6 wisdom may deem expedient to promote the interest of
7 North Carolina.

House Doc., Dec. 5, 1840.

[Reported, by Mr. McLEAN, from the Select Committee. Read first time and passed; on Mr. Avery's motion, ordered to be printed, and made the order of the day for Monday next. Subsequently, reconsidered, and, on motion of Mr. Caldwell, made the order of the day for Wednesday next.]

A BILL

To amend the Constitution of North Carolina.

Whereas the freehold qualification now required for the electors for members of the Senate, conflicts with the fundamental principles of liberty: Therefore,

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*—three-fifths of the whole number of members of each house concurring—That the second clause of the third section of the first Article of the amended Constitution, ratified by the people of North Carolina on the second Monday of November, A. D. 1835, be amended by striking out the words—“and possessed of a freehold within the same district, of fifty acres of land for six months next before and at the day of election;” so that the said clause of said section, shall read as follows: 2. All freemen of the age of twenty-one years (except as is hereinafter declared) who have been inhabitants of any one district within the State, twelve months immediately preceding the day of any election, shall be entitled to vote for a member of the Senate.

II. *Be it further enacted*, That the Governor of the State be, and he is hereby directed to issue his proclamation to the people of North Carolina; at least six months before the next election, for members of the General Assembly, setting forth the purport of this bill and the amendment to the constitution herein proposed; which proclamation shall be accompanied by a true and perfect copy of the bill authenticated by the certificate of the secretary of State, and both the proclamation and the copy of this bill the Governor of the State shall

11 cause to be published in all the newspapers of this State,
12 and posted in the court houses of the respective counties
13 in this State, at least six months before the election of
14 members to the next General Assembly.

Dec. 7, 1850.

[Introduced by Mr. AVERY. Read first time and passed, and, on motion of Mr. Avery, referred to the Select committee on amendments to the constitution, and ordered to be printed.]

Dec. 9, 1850.

Read second time, and, on motion of Mr. Stevenson, laid on the table.

A BILL

To amend the Constitution of North Carolina, so as to provide for the election of Judges by the people.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* Three fifths of the whole number of members in each House of the General Assembly concurring, that the thirteenth section of the Constitution of this State, agreed to, and resolved upon, and ratified by the Representatives of the freemen of the State of North-Carolina, elected and chosen for that particular purpose, in Congress assembled, at Halifax, on the eighteenth day of December, in the year of our Lord, one thousand, seven hundred and seventy-six, be amended by striking out the whole of said section, which is in these words: "That the General Assembly shall by joint ballot of both Houses appoint Judges of the Supreme Courts of Law and Equity, Judges of Admiralty * * * who shall be commissioned by the Governor and hold their offices during good behavior," and in lieu thereof insert the following words, so as to make said thirteenth section read thus: That the Judges of the Supreme and Superior Courts of Law and Equity, and Judges of Admiralty, shall be chosen by the electors of this State who are qualified voters for the members of the House of Commons, at such times and places and in such manner as may be prescribed by law; and said Judges, when elected, shall hold their offices for the term of eight years—the term commencing at the date of their commission; and they shall be commissioned by the Governor, on the first day of January, in the year succeeding the day of their election, such election being first duly ascertained and certified to him in such manner as the Legislature may direct. And in case any Judge of the Supreme or Superior Courts of Law and Equity shall die, or his office

33 by other means become vacant, before the expiration of
34 his term, the Governor shall have power, with the advice
35 and consent of the Council of State, to fill up such va-
36 cancy, by a temporary commission, which shall expire on
37 the first day of January, in the year next succeeding the
38 time which may be prescribed by law for the election of
39 a successor to fill such vacancy—and the successor, when
40 elected, shall only hold his office for the residue of the
41 unexpired term. The first Legislature which convenes
42 after this amendment to the Constitution takes effect,
43 shall prescribe the times, places and manner of holding
44 and conducting the elections herein provided, with power
45 to alter, modify or amend the same from time to time,
46 and to make provision for filling any vacancy which may
47 occur, by election; and the Judges of the Supreme and
48 Superior Courts of Law and Equity, in office when this
49 amendment to the Constitution takes effect, may continue
50 to execute the duties of their respective offices and re-
51 ceive such fees and salaries as are now, by law, appurten-
52 ant thereto, until the Judges who may be elected under
53 the provisions of this amendment to the Constitution of
54 the State, shall have been duly commissioned by the
55 Governor. And in case any vacancy should occur in the
56 offices of the Judges of the Supreme and Superior
57 Courts of Law and Equity, previous to the first day of
58 January next succeeding the time of the first regular e-
59 lection of Judges under the provisions of this amend-
60 ment, then the Governor, by and with the advice and
61 consent of the Council of State, may appoint a proper
62 person to fill such vacancy.

II. *Be it further enacted*, That the Governor of this
2 State be and he is hereby directed to issue his proclama-
3 tion to the people of North Carolina, at least six months
4 before the next election of Members of the General As-
5 sembly, setting forth the purport of this bill and the a-
6 mendment to the constitution herein proposed, which
7 proclamation shall be accompanied by a true and perfect
8 copy of this bill, authenticated by the Secretary of State,
9 and both the proclamation and copy of this bill, the Gov-
10 ernor shall cause to be published in all the newspapers
11 in the State, and posted in the Court Houses in the res-
12 pective counties in this State, at least six months before
13 the election of Members to the next General Assembly.

Dec. 7, 1850.

[Introduced by Mr AVERY. Read 1st time, passed, and referred to the Committee on Amendments to the Constitution, and ordered to be printed.]

Dec. 9, 1850.

[Introduced by Mr. AVERY. Read 2nd time, and on motion of Mr. Avery, laid on the table pending the amendment offered by Mr. Walton.]

A BILL

To amend the Constitution of North Carolina, so as to provide for the election of Justices of the Peace by the people.

1. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*—Three fifths of the whole number of members of each House of the General Assembly concurring—That the thirty third section of the Constitution of this State agreed to, and resolved upon, and ratified by the Representatives of the Freemen of the State of North Carolina, elected and chosen for that particular purpose, in Congress assembled, at Halifax, on the eighteenth day of December, in the year of our Lord, one thousand, seven hundred and seventy six, be amended by striking out the whole of said thirty third section, which is in these words “That the Justices of the Peace within the respective counties in this State, shall, in future, be recommended to the Governor for the time being, by the Representatives in General Assembly, and the Governor shall commission them accordingly. And the Justices, when so commissioned, shall hold their offices during good behavior, and shall not be removed from office by the General Assembly unless for misbehavior, absence, or inability;” and in lieu thereof, insert the following words, so that said thirty third section shall read thus:—That the Justices of the Peace within the respective counties in this State, shall be chosen by the electors of each County, who are qualified voters for the members of the House of Commons, and when so elected, they shall hold their offices for the term of four years—the term commencing from the date of their commission. The Governor shall commission said Justices on the first day of January in the year next succeeding the day or time of their election, said election being first duly ascertained and certified to him, in such manner as the Legislature may direct. The number and classification of said Justices shall be regulated by Law, and the Legislature shall have the power to lay off and organize convenient districts

36 within each County, and require the qualified electors
37 residing in each district, to elect such number of Justices
38 of the Peace as may be designated by Law for such dis-
39 trict; and the Justices so elected, shall have the same power
40 and authority within their respective counties that Justices
41 of the Peace heretofore had and exercised. The times,
42 places, and manner of holding said elections shall be reg-
43 nlated by Law. The mode and manner of filling va-
44 cancies which may occur by death, resignation, removal
45 or otherwise, shall be prescribed by Law, and the suc-
46 cessor chosen to fill any vacancy shall hold his office for
47 the residue of the unexpired Term. Justices of the Peace
48 may be removed from office for misbehavior, absence or
49 inability, and these causes for removal may be ascertain-
50 ed and determined in such manner and before such tri-
51 bunal as may be prescribed by Law. The Justices who
52 may be in office when this amendment to the Constitution
53 takes effect, may continue to execute the duties of their
54 said offices, within their respective Counties, until the
55 Justices who may be elected under the provisions of this
56 amendment to the Constitution, shall have been duly
57 commissioned by the Governor.

II. *Be it further enacted*, That the Governor of this
2 State be, and he is hereby directed to issue his proclama-
3 tion to the people of North Carolina, at least six months
4 before the next election of members of the General Assem-
5 bly, setting forth the purport of this Bill, and the amend-
6 ment to the Constitution herein proposed; which procla-
7 mation shall be accompanied by a true and perfect copy
8 of this Bill authenticated by the Secretary of State: and
9 both the proclamation and copy of this Bill, shall be pub-
10 lished in all the Newspapers of the State, and posted in
11 the Court Houses of the respective Counties in this State
12 at least six months before the election of members to the
13 next General Assembly.

[SENATE DOC. NO. 45.]

REPORT

OF

THE JOINT SELECT COMMITTEE

ON

CHEROKEE LANDS.

RALEIGH :

Thos. J. Lemay, Printer to the State.
1850.

[House Doc. No. 10]

REPORT

Dec. 6th, 1850.

Introduced by Mr. FLEMMING. Read the 1st time and passed, and on motion of Mr. Flemming ordered to be printed together with Report and laid on the table.

THE JOINT SELECT COMMITTEE

ON

THE PROPOSED AMENDMENT

THOMAS J. LEMMY, Printer to the Senate.

1851

REPORT.

The Joint Select Committee "on Western Turnpike and Cherokee Lands," to whom was referred so much of the Governor's Message as relates to the Western Turnpike Road and Cherokee Lands," also a Bill for the relief of the purchasers of Cherokee lands, submitted to the House of Commons and referred to the Committee, have had the same under consideration, and after mature investigation of these subjects, beg leave to Report:

That it is well known to the Legislature, that the Cherokee Lands, which have formed the subject of so much legislation for the last ten years, were acquired by the General Government from the Cherokee Indians; by treaty, in the year 1835; that the Legislature of the State, at the session of 1836, passed an act authorizing a survey and sale of the lands thus acquired, and directed that the Commissioners of survey should classify the lands into five classes, upon which the Legislature fixed the following prices, that is to say, lands of the first class, should be estimated at four dollars per acre; of the second class, two dollars; of the third class, one dollar; of the fourth class, fifty cents; and of the fifth class, twenty cents. Of the entire territory, there were surveyed two hundred and twenty thousand, eight hundred and fifty two acres, the whole of which was offered at public sale by the Commissioners appointed for that purpose in September, 1838. Of this quantity, one hundred and ninety thousand four hundred and forty acres were sold, bringing the large sum of three hundred and thirty two thousand, five hundred and ninety one dollars and ninety three cents (332,591 93.) Of this sum, forty six thousand, four hundred and fifty dollars and seventy-five cents, being the one eighth part, together with some advance payments, was received by the Commissioners at the time of sale and paid into the public Treasury; the residue of surveyed lands not commanding the State prices, were knocked off to the State, and remain yet undisposed of. According to the classification of the lands by the Commissioners of Survey, the quantity actually sold would amount, at the prices fixed by the State, to the sum \$36,031 45; whereas they sold, as before stated, for the sum of \$332,591 93, being \$246,560 48 more than the State valuation. The State has already received, on account of this sale, including the amount paid at the time, the sum of \$187,656 22, being more than double the amount fixed, by the act of 1836, as the sum which the State was willing to take for these lands.

Your Committee deem it not out of place, to a proper under-

standing of this subject, to assign some of the reasons which operated to produce the enormous prices at which these lands sold. The Cherokee tribe of Indians, from time immemorial, inhabited the Western portion of this State. By the Cherokee treaty of 1828, such of the tribe, as desired to remove West of the Mississippi River, were to be paid for their improvements abandoned. The Agent, who superintended the removal of the Indians, permitted white citizens to move in and settle those improvements abandoned by the Indians; and in addition to cultivating the small improvements of the Indians added thereto valuable improvements, many of them anticipating the removal of the Indians, and that they would be pre-emption rights: when the lands were disposed of by the treaty of 1835, the Cherokee Indians were, except a few individuals who became subject to the laws of the State, to remove west of the Mississippi within a given time. This event had long been expected, from the known policy of the General Government in relation to the Indian tribes within the States. Consequently, many citizens of the State, who otherwise would have gone to the Western or South-western States, removed into the Indian Territory, with a view of making an early settlement and preparing to secure themselves homes whenever the lands should be brought into market. Most of these emigrants were from Western counties in this State, and the proportion proved to be rather larger by the time the sales came on hand than the lands would fairly supply. The Indians, notwithstanding their treaty obligations to remove, refused to go, and the General Government was obliged to order out a large force to compel their removal. A considerable portion of these troops were stationed in the country for near two years and had to draw many of their supplies from the country itself. This created a ready demand and a high price for every article which the country could afford; and so long as the troops remained, a fictitious prosperity was produced throughout the entire Cherokee territory. Money became very abundant, and a false idea of the facilities which the country afforded for making money, seemed to pervade the whole community. It was just after the withdrawal of the United States troops that the sales of 1838 occurred. The people who had thus been making money rapidly for two or three years preceding, with false ideas of the true value of the lands, excited by competition from abroad, and desirous of securing the homes of their own selection, and without there not being valuable lands enough to supply the demand, may well be supposed to have run into excess and extravagance, not justified either by a due regard to their own

interests or those of the State. Time proved this to have been the case. For under the provisions of an Act of Assembly, passed in the year 1844, constituting a commission for the purpose, nearly one half of the debt then due the State on account of these lands, was reported as insolvent, and by the provision of the same act, the purchasers were authorised to surrender the lands to the State. Hence, it became necessary that some new provision should be made for the disposition of these lands; and by an Act, passed at the last Session, a Board of Valuation was constituted, to place a fair value upon these lands, with a pre-emption right to the first purchasers to take them for a given period; and at the expiration of that time, they should be subject to purchase at the valuation fixed upon them, by any person who might choose to take them. All, except thirty seven tracts, have been disposed of. These still remain untaken, either by the original purchasers or other persons; but provision is made in the accompanying bill, which your Committee think will ensure their being taken up in a reasonable time.

The Legislature having thus, by the Act of the last Session, absolved the original purchasers (who were reported as insolvent) from their contracts with the State, and permitted them to take the lands at a new valuation, upon their paying one fourth the amount thereof to the State, and securing the residue, or, in other words, entering into a new contract, your committee cannot perceive any reason, in view of all the circumstances of the case, why those who were reported as solvent purchasers should not be placed on an equal footing, at least, with those who were insolvent or unable to pay. Your Committee believe that every principle of Justice, equality and fair dealing demand this relief in behalf of those who have been honestly endeavoring, for ten years past, to comply with their engagements to the State, but who, in consequence of the exorbitant prices paid for the lands purchased, and the depressed price of produce, have been unable to do so, however much they desire it. For the purpose of affording the relief prayed for, your Committee have instructed the undersigned to report the accompanying bill, and recommend its passage.

All of which is respectfully submitted.

SAML. FLEMMING,

A member of the Committee.

A BILL

To provide relief for purchasers of Cherokee Lands, secure debts due to the State, and authorize the sale of lands surrendered to the State under the acts of 1844-5 and 1846-7.

Whereas by acts of the General Assembly, passed at the sessions of 1844-5 and 1846-7, all persons who purchased lands at the sale of 1838, and who were unable to pay for them, were authorized to surrender said lands to the State; and whereas a large number of tracts were surrendered under the provisions of said Act; and whereas by the subsequent Act of 1846-7, those lands were assessed by agents appointed under said Act, and the purchasers were, upon giving new bonds with approved security, permitted to take up the lands surrendered at the price fixed upon them by the agents of the State; and whereas it is but just and right that all purchasers should have the same measure of relief extended to them:

I. *Be it therefore, enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same:* That the County Court of Cherokee County, a majority of the Justices of the Peace being present, shall appoint a suitable person residing in said County, and the Governor of the State shall appoint two others, not residents of Cherokee County, who shall constitute a Board of valuation, whose duty it shall be to value all the lands surrendered to the State and have not been taken up, also the lands of insolvent purchasers which have not been surrendered, as well as the lands of solvent purchasers (if desired to do so by such solvent purchasers) at a fair valuation, that is to say what such lands were worth in 1838, taking into consideration the localities of said lands and the facilities the purchasers may have in the transportation of their produce to market, and all other circumstances which tend to increase or diminish the value of the lands so valued above or below what they are estimated to have been worth when sold by the State in the year 1838.

II. *Be it further enacted,* That in order to guard the in-

terest of the State, the said Board of Commissioners shall have no power to reduce the price of any lands valued by them, below the valuation placed thereon by the Commissioners, appointed to superintend their survey under the Act of 1836, under which Act the first quality was valued at four dollars per acre, the second quality at two dollars and the third quality at one dollar per acre, the fourth quality at fifty cents, and the fifth quality at twenty cents per acre. Provided further, that the said Board of Commissioners in valuing the lands of the solvent purchasers, under this act, shall have no power to reduce the price of any tract below one half of what it sold for in 1838. And it shall be the duty of the Board of Valuation, to make out duplicate lists of such valuation as soon as may be. One copy of which shall be filed in the Office of the Clerk of the County Court of Cherokee County, and the other they shall transmit to the Governor of the State, to be filed in his Office, and the same shall form a part of the records of said Offices.

III. *Be it further enacted*, That the Commissioners hereby authorized to be appointed, shall within sixty days after the acceptance of their appointment, meet at the Town of Murphy in the County of Cherokee for the purpose of proceeding in the execution of their duties; that the Commissioner appointed by the County Court of Cherokee County shall advertise for thirty days previously at the Court House and three other public places in said County, and also in both the newspapers published at Asheville, the time and place of meeting of the said commissioners. And all persons desirous of taking the benefit of this act shall with ten days next preceding the day appointed for meeting of the commissioners aforesaid, apply either in person or by agent to the commissioner appointed by the County Court of Cherokee County, whose duty it shall be to attend for that purpose, and render unto him a list containing the number of the tracts of land, the district in which they lie, and the number of the sections of all the lands they desire to be valued under the provisions of this act. And the said Commissioner shall enter the same in regular order in a book prepared for that purpose, so that the Board of Valuation may when met proceed in the performance of their duty as herein required.

IV. *Be it further enacted*, That the Commissioners aforesaid shall take and subscribe an oath before some Justice of the Peace of Cherokee County, that they will in accordance with the provisions of this act, and to the best of

5 their judgments, value the land aforesaid fairly and im-
6 partially as between the purchasers or those entitled to
7 their privileges and the State, and that they will endeavor
8 or to do equal and impartial justice between the purchas-
9 ers themselves; and the said board shall give to each of
10 the purchasers, or the persons entitled to their privileges
11 whose lands they may value, a certificate setting forth the
12 district, section and valuation of each tract valued by
13 them as aforesaid.

V. *Be it further enacted*, That the Comptroller of public
2 accounts shall furnish as may be, after the passage of
3 this act, to the agent of the State, who may be entrusted
4 by law with the collection of Cherokee bonds, a full and
5 complete statement, containing the names of all the pur-
6 chasers of Cherokee lands at the sale of 1838, who were
7 returned solvent under the act of 1844, also the names
8 of all the purchasers whose lands have been surrendered
9 to the State: which statement shall exhibit the amount
10 of the bonds given for the original purchase of each tract
11 of land, together with the date of the same and the sev-
12 eral payments made thereon, together with the date of
13 each payment. And upon the receipt of the said state-
14 ment, the agent shall proceed upon application of the
15 purchasers aforesaid; and upon their producing the cer-
16 tificate of the board of valuation showing the amount of the
17 valuation of each tract, to deduct the payments which
18 have been made to the State on each tract, from the val-
19 uation thereof, and for the balance due, if any, he shall
20 take from the purchasers, or such other person or persons
21 as may be entitled to the privileges of the original pur-
22 chaser, bonds with good and sufficient security, payable
23 in four annual instalments.

VI. *Be it further enacted*, That upon the settlement
2 provided for in the last preceding section being made,
3 and new bonds with good and sufficient security, to be
4 approved of by the agent of the State, being given, the
5 said agent is hereby authorized to cancel and surrender
6 up to said purchasers, their heirs, devisees or assignees all
7 the bonds given to the State for the said lands: *Provid-*
8 *ed, nevertheless*, that in case more than one tract shall
9 be included in the same bonds and only a part of the
10 tracts valued, then and in that case the agent shall not
11 deliver up the bonds to the purchaser, but credit them for
12 the tracts valued upon new bonds being given for such
13 tracts, as in other cases where separate bonds had been
14 given for each tract.

VII- *Be it further enacted*, That as a full compensation
2 for the performance by them of the duties herein requir-
3 ed, the said board shall be allowed the sum of three dol-
4 lars each for every day they may be necessarily engaged
5 in the discharge of the duties herein required, and three
6 dollars for every thirty miles in travelling to and from
7 Murphy, to be paid by the agent of Cherokee lands out
8 of any monies in his hands, upon the affidavits of the mem-
9 bers of the board, setting forth the number of days each
10 may have served; and their receipts shall be received by
11 the Public Treasurer from the said agent of Cherokee
12 lands as cash, in any future settlement with him; and
13 the said agent shall be allowed such compensation for
14 the additional services required of him by this act, as
15 the Governor, Treasurer and Comptroller may allow, on
16 satisfactory proof being made to them, of the number of
17 days which the said agent may have served, or such other
18 evidence of the amount of service performed by him un-
19 der this act.

A BILL

TO

INCORPORATE

THE WILMINGTON AND TOPSAIL SOUND

PLANK ROAD COMPANY.

Dec. 5, 1850.

[Introduced by Mr. NIXON. Passed first reading and referred to the Committee on Internal Improvement and ordered to be printed.

A BILL

To incorporate the Wilmington and Topsail Sound Plank Road Company.

I. *Be it enacted by the General Assembly of the*
2 *State of North Carolina, and it is hereby enacted by*
3 *the authority of the same,* That it shall be lawful to o-
4 pen Books in the town of Wilmington, under the direc-
5 tion of Thos. H. Wright, Dugald McMillan, Miles
6 Coston, Hiram, R. Nixon, John A. Saunders, Samuel
7 Berry, or any two of them; at Topsail Academy, under
8 the direction of Obed. F. Alexander, David R. Gointo,
9 Nich's. F. Nixon, David K. Futch, Edward St George,
10 and Joseph M. Foy, or any two of them; at Sandy Run,
11 under the direction of David S. Saunders, Thos. Hans-

12 ley, John W. Howard, Alonzo Nixon, Robert J. Howard,
13 and Charles Alexander, or any two of them, for the pur-
14 pose of receiving subscriptions to an amount not exceeding
15 Fifty Thousand Dollars, in shares of fifty dollars each,
16 for the purpose of effecting a communication between the
17 town of Wilmington and some point in the Eastern line
18 of the County of New Hanover, between Holly Shelter
19 Pocosin and the Sound, the route to be followed and the
20 points of communication between said places to be deter-
21 mined by said Company after the same shall have been
22 formed.

II. *Be it further enacted*, That the times and places
2 of receiving such subscriptions shall be advertised in
3 one or more of the Papers published and printed in the
4 town of Wilmington; and the books for receiving the same
5 shall not be closed within ten days after the opening; and
6 said Commissioners shall have power to open books,
7 from time to time, as they think proper, until the whole
8 number of shares be subscribed.

III. *Be it further enacted*, That when the sum of
2 Ten Thousand Dollars shall be subscribed for in man-
3 ner aforesaid, the subscribers, their executors, administra-
4 tors or assigns, shall be, and they are hereby declared to be
5 incorporated into a Company by the name and style of
6 "the Wilmington and Topsail Sound Plank Road Compa-
7 ny," and by that name shall be capable in law of purchas-
8 ing, holding, selling, leasing and conveying Estates, real,
9 personal and mixed, so far as may be necessary for the
10 purposes of said Company, either in constructing said
11 Road or managing the affairs of said Company; and shall
12 have perpetual succession, and by said corporate name may
13 sue and be sued, and may have a common seal, which
14 they shall have power to alter and renew at pleasure,
15 and shall have and enjoy, and may exercise all the pow-
16 ers, rights and privileges which other corporate bodies
17 may lawfully do, for the purposes mentioned in this act,
18 and may make all such By Laws, rules and regulations
19 not inconsistent with the laws of this State, or of the
20 United States, as shall be necessary for the well ordering
21 and conducting the affairs of said Company.

IV. *Be it further enacted*, That upon any subscription of stock as aforesaid, there shall be paid at the time of subscribing to the said Commissioners or their agents appointed to receive such subscriptions, the sum of one dollar, on every share subscribed, and the residue thereof shall be paid or secured in such manner and at such time or times as may be required by the Board of Directors of said Company.

V. *Be it further enacted* That the said Commissioners or their agents shall forthwith after the first election of a Board of Directors of the company, pay over to said Directors all monies received by them, and on failure thereof, the said Directors may, in the name of said company, recover the amount due from such commissioners in the Courts of Pleas and Quarter Sessions, or in the Superior Courts of Law of the County of New Hanover, or by warrant before any Justice of the Peace for said County.

VI. *Be it further enacted*, That when Ten Thousand Dollars shall have been subscribed, public notice of that event shall be given by the said commissioners at Wilmington, who shall at the same time call a general meeting of the Stockholders at such convenient place and time as they shall name in said notice.

VII. *Be it further enacted*, That to constitute such meeting, a majority of the stockholders shall be present, either in person or by proxy; and if a sufficient number to constitute a meeting do not attend on that day, those who attend shall have the power to adjourn, from time to time, until a meeting shall be formed.

VIII. *Be it further enacted*, That the subscribers at such general meeting, and at every annual meeting thereafter shall elect a President and eight Directors, who shall continue in office until the next annual meeting of the Stockholders as aforesaid, and until their successors shall be elected. The President with any three or more Directors, or, in the absence of the President, four or more Directors, one of whom is the appointee of the President as is hereinafter provided, shall constitute a Board for the transaction of the general business of the Company. The President shall and may designate and appoint, in writing, any one of the Directors to act as President *pro tem*. during his absence; and such appointee of the President shall have all the rights and powers of the President during the absence of the President. In case of a vacancy

16 in the Board of Directors happening from death, resigna-
17 tion or otherwise, such vacancy may be supplied by the
18 appointment by the Board of any one of the stockholders,
19 who shall act as a Director until the next annual meet-
20 ing of stockholders.

IX. *Be it further enacted*, That the said company
2 shall be, and they are hereby invested, with all the
3 rights and powers necessary for the construction, repairs,
4 and maintaining of a Plank Road to be located as afore-
5 said, with such branches diverging from the main stem
6 as the stockholders in general meeting may authorise
7 and cause to be made, and also to make and construct
8 all works whatsoever, which may be necessary to the
9 completion of said Road and all its branches.

X. *Be it further enacted*, That the said Board of
2 Directors shall have power to make contracts with
3 any person or persons on behalf of the company, for
4 making the said Plank Road, together with any branch-
5 es of the same, and performing all other things respect-
6 ing the same, which they shall deem necessary and
7 proper; and to require from the subscribers, from
8 time to time, such instalments on their stock as they
9 may deem necessary for the purposes of the com-
10 pany until the whole of their subscriptions shall be
11 paid; to call, on any emergency, a general meeting of
12 the stockholders, giving one month's notice thereof in
13 one or more of the newspapers printed in the town of
14 Wilmington; to appoint such officers as they may deem
15 necessary to transact the business of the company, taking
16 from them bond and sufficient security for the faithful
17 discharge of their several duties and duly accounting
18 for all monies coming into their hands; and generally to
19 transact all the business of the company between the gen-
20 eral meetings of the stockholders.

XI. *Be it further enacted*, That if any stockholder
2 shall fail to pay the sum required of him by the board
3 of directors or by a majority of them, within one month
4 after the time the same shall have been advertised in
5 one or more of the newspapers published in the town of
6 Wilmington, it shall and may be lawful for said board of
7 directors, or a majority of them (having first notified in
8 writing such defaulting stockholder of their intention so
9 to do) to sell at public auction and to convey to the pur-
10 chaser the share or shares of such stockholder so failing
11 or refusing, giving one month's previous notice of the
12 time and place of sale in manner aforesaid; and after

13 retaining the sum due and all the charges of the sale,
14 out of the proceeds thereof, to pay the surplus over to such
15 stockholder or to his legal representatives; and if the
16 said sale shall not produce the sum required with all in-
17 cidental charges attending such sale, then the said board
18 of directors may recover the balance of the original pro-
19 prietor or his assignee or the Executor or Administrator,
20 or either of them, by suit in any court of record having
21 jurisdiction thereof, or by warrant before any Justice of
22 the Peace of the county of which he is resident; and
23 any purchaser of the stock of the company under a sale
24 by order of the board of directors, shall be subject to
25 the same rules and regulations as the original proprie-
26 tors.

XII. *Be it further enacted*, That said company by
2 their officers or agents may agree with the owners of any
3 land over which said road or any of its branches is intended
4 to pass for the purchase of a roadway, and also for the pur-
5 chase of suitable locations for their toll houses, toll gates
6 and other necessary buildings; the land for such road
7 way not to exceed one hundred feet in width, and the
8 land necessary for sites for their buildings or erections as
9 aforesaid not to exceed five acres in any one parcel; and
10 in case of disagreement with the owner of such land, or
11 if the owner be *femme covert*, *non compos*, under age,
12 or out of the State, said company by their officers or a-
13 gents may apply to any two Justices of the Peace for the
14 county of New Hanover, who shall thereupon issue their
15 warrants to the sheriff of said county to summon eighteen
16 disinterested freeholders to meet on the land to be valued
17 on a day to be expressed in such warrant, which shall be
18 within twenty and not less than ten days from the issu-
19 ing thereof; and the sheriff upon receipt of any such war-
20 rant shall summon such freeholders accordingly, and
21 when met he shall by lot draw twelve of them, who
22 after being duly sworn shall impartially estimate the
23 value of so much of said land as may be required for the
24 roadway, or for the site for any building or erection re-
25 quired by said company, as the case may be; the width
26 of such roadway and the land for such sites for any build-
27 ing or erection to be and contain the maximum quantity
28 of land which said company is by previous provisions of
29 this section authorised to acquire by purchase upon agree-
30 ment with the owner; and after said Jury has duly con-
31 sidered the damages sustained by the owner of said land
32 and assessed the same, the sheriff shall cause said inqui-

33 sition to be reduced to writing and signed by the Jury
34 and countersigned by himself, and returned to the clerk
35 of the county court to be recorded.

XIII. *Be it further enacted,* That it shall and may
2 be lawful for the said board of directors, to demand and
3 receive at some convenient toll gates to be by them erect-
4 ed, a reasonable toll from all persons using said plank
5 road or any of its branches.

XIV. *Be it further enacted,* That the road hereby
2 authorised to be made, shall not be less than eight nor
3 more than thirty feet wide; and that as soon as five miles
4 in extent shall have been constructed, it shall and may
5 be lawful for the said board of directors to demand and
6 collect such toll from persons using said road as may be
7 by them determined, in accordance with the rates impos-
8 ed by the thirteenth section of this act, and in like pro-
9 portion for a greater extent of road; and if any person or
10 persons shall forcibly or fraudulently pass any toll gate
11 thereon without having paid the legal toll there due, or
12 without the consent of the toll gatherer at such gate; or
13 if any person or persons, to avoid paying toll, shall with
14 his team, carriage, cart or other vehicle or with his horse
15 or horses or other beasts with no vehicle to them attach-
16 ed, turn out of said road before reaching any toll gate
17 thereon; or if any person or persons shall fraudulently
18 use said road between any of the places where tolls are
19 collected thereon, on any part or portion of said road
20 without paying the toll due for the portion of said road
21 so used by him, every such person or persons violating
22 any one or more of the provisions of this section shall
23 severally, if a white man or a free person of colour, pay a
24 fine of five dollars, to be recovered in the name and for
25 the use of said company, by warrant before any Justice
26 of the Peace for the county of New Hanover; and if a
27 slave, shall receive such punishment by whipping as shall
28 be adjudged by any Justice of the Peace for the county
29 of New Hanover, under a warrant to be issued in the
30 name of said company against such slave: *Provided, how-*
31 *ever,* that such whipping shall in no case exceed twenty-
32 five lashes.

XV. *Be it further enacted,* That if any person or per-
2 sons shall wilfully or maliciously injure, or in any man-
3 ner damage or obstruct, or shall wilfully or maliciously
4 cause, aid, assist, counsel or advise any other person or
5 persons to injure, damage, or obstruct said plank road,
6 toll gates or toll houses, or any of the property or effects

7 of said company, such person or persons so offending,
8 shall be liable to be indicted therefor, and, on conviction,
9 shall be imprisoned or fined at the discretion of the court,
10 before which said conviction shall take place.

XVI. Be it further enacted, That distinct accounts
2 of the proceedings and disbursements of the board, shall
3 be made by them, to the annual meetings of the stock-
4 holders: *Provided*, that if a number of stockholders
5 holding one-fourth in amount of the capital stock of said
6 company, shall ask of the board, in writing, a call of a
7 general meeting of the stockholders, such meeting shall
8 be called, and to such meeting the board shall make a
9 report similar in all respects to the one required to be
10 made at annual meetings.

XVII. Be it further enacted, That whenever, in the
2 construction of said road, it may be necessary to cross or
3 intersect any established road or way, it shall be the duty
4 of the board of directors so to construct the said plank
5 road across such established roads or ways, as not to im-
6 pede the passage or transportation of persons or property
7 along the same; and if, in the construction of said plank
8 road, or any of its branches, or of any toll gate or toll
9 house, it may become necessary or expedient to use or
10 change any portion of any established public road or
11 way, it may be lawful for said board of directors to
12 change the said roads at points where they may deem it
13 necessary or expedient to do so, and that for entering
14 upon or taking any land necessary therefor, they shall be
15 and are hereby authorised to proceed under the provis-
16 ions of this act, as in case of land necessary for the plank
17 road: *Provided further*, that previous to making any
18 such change, the said company shall make and prepare
19 a road equally good with the road proposed to be used
20 by them; but nothing herein contained shall be so con-
21 structed as to make it incumbent on said company, to
22 keep in repair the portion of any road which they may
23 have changed as aforesaid.

XVIII. Be it further enacted, That this act shall be
2 in force from and after the ratification thereof, and shall
3 be regarded as a public act, and be continued in force for
4 thirty years.

A BILL

TO

CONFIRM THE UNION OF THE SEABOARD

AND

ROANOKE RAIL ROAD &c.

Dec. 7.

[Introduced by Mr. RAYNER. Read first time and passed, and referred to committee on internal improvements, and ordered to be printed.]

A BILL

To confirm the union of the Seaboard and Roanoke Railroad, and the Roanoke Railroad Companies, and for other purposes.

WHEREAS, the General Assembly of the State of North Carolina, by an act ratified the 16th. day of January 1849, authorised the union of the Seaboard and Roanoke Railroad company, (a corporation incorporated by the Legislature of Virginia, in February 1846,) and the Roanoke

6 Railroad company, (a corporation incorporated by the
7 egislature of North Carolina, in February 1847,) into
8 one company, entitled the Seaboard and Roanoke Rail-
9 road company; and whereas the stockholders in each of
10 said companies have signified their acceptance of said
11 act, uniting them into one company: Therefore,

1. *Be it enacted by the General Assembly of the State*
2 *of North Carolina, and it is hereby enacted by the au-*
3 *thority of the same, 'That the union of the said Seaboard*
4 *and Roanoke Railroad company, and the Roanoke Rail-*
5 *road company, into one company, entitled the Seaboard*
6 *and Roanoke Railroad company, is hereby ratified and*
7 *confirmed.*

AND WHEREAS, the act, of the General Assembly of
2 North Carolina, incorporating the North Carolina Rail-
3 road company, ratified the 27th. of January 1849, pro-
4 vided in the 49th. section of said act, that whenever the
5 Seaboard and Roanoke Railroad company, or the Roan-
6 oke Railroad company, should subscribe to the Raleigh
7 and Gaston Railroad company, one half of the sum ne-
8 cessary to construct a Railroad from some point on the
9 said Raleigh and Gaston Railroad near Littleton, or be-
10 tween that place and Gaston, to Weldon, or some point
11 near that place on the Wilmington and Raleigh Railroad,
12 then the public treasurer of this State should be author-
13 ised and directed to subscribe for an equal sum on the
14 part of the State, for the purpose of aiding the extension
15 of the Raleigh and Gaston Railroad, to said town of Wel-
16 don, or some point near thereto: AND WHEREAS, it is not
17 now deemed advisable to encumber the State, as proprie-
18 tor of the Raleigh and Gaston Railroad, with the build-
19 ing of said connecting link of road, between the said
20 points on the Raleigh and Gaston Railroad, and the Wil-
21 mington and Raleigh Railroad; now, in case the said Sea-
22 board and Roanoke Railroad, will release the State of
23 North Carolina from its obligations to do the same on the
24 conditions stipulated in said act of 27th, of January 1849:

25 AND WHEREAS, inasmuch as some twenty nine miles of
 26 said Seaboard and Roanoke Railroad, when completed in
 27 its entire length under the aforesaid union of the two
 28 aforesaid companies, will be within the State of North
 29 Carolina, it is therefore deemed very desirable that the
 30 State should have a voice, and be represented, in the di-
 31 rection and management of said road: Therefore,

II. *Be it further enacted*, That the subscription to the
 2 Raleigh and Gaston Railroad company, authorised to be
 3 made on the part of this State, by the 49th. section of
 4 said act, incorporating the North Carolina Railroad com-
 5 pany, for the purpose of securing a connection by rail-
 6 road between the Raleigh and Gaston, and the Wilming-
 7 ton and Raleigh Railroads, be transferred to the Seaboard
 8 and Roanoke Railroad company, on the following condi-
 9 tions, to wit:--that in case the said Seaboard and Roanoke
 10 Railroad company shall actually commence the construc-
 11 tion of said connecting link of Railroad before the first of
 12 June next, and shall exhibit to the public treasurer satis-
 13 factory evidence of their ability to complete the same,
 14 then the public treasurer is hereby authorised and direct-
 15 ed to subscribe for and on behalf of the State, to the
 16 stock of the Seaboard and Roanoke Railroad company,
 17 for one half the sum necessary to build said connecting
 18 link, provided the sum so subscribed shall not exceed
 19 seventy five thousand dollars, and pay for said subscrip-
 20 tion out of any money in the treasury not otherwise ap-
 21 propriated; and for the want of such money in the treasu-
 22 ry, the public treasurer is hereby authorised to borrow the
 23 sum at a rate of interest not exceeding six per cent per
 24 annum, and to issue bonds of the State payable at any
 25 time within thirty years, for not less than five hundred
 26 dollars each—*provided*, that upon the assignment by the
 27 treasurer of the mortgage now held by the State, upon the
 28 Weldon bridge, to said Seaboard and Roanoke Railroad
 29 company, the amount of said mortgage and interest there-
 30 on to the time of such assignment shall be received by

31 said Seaboard and Roanoke Railroad company, as part
 32 payment of said subscription to the stock of said compa-
 33 ny, as herein before provided for; and the public treasur-
 34 er is hereby authorised and directed to make such assign-
 35 ment of said mortgage, upon the aforesaid conditions.

III. *Be it further enacted*, That all laws and clauses
 2 of laws, coming in conflict with the provisions of this act,
 3 be, and the same are hereby repealed.

RESOLUTIONS

ON

THE SLAVERY QUESTION,

PRESENTED BY

MR. WOODFIN,

FROM THE COMMITTEE ON NEGRO SLAVERY.

RALEIGH:

Thos. J. Lemay, Printer to the State.
1850.

Dec. 9, 1850.

[Reported by Mr. WOODFIN, from the Committee on Negro Slavery, and made the order of the day for Friday next, and ordered to be printed.]

Dec. 10, 1850

Reconsidered and made the special order for Monday next.

RESOLUTIONS ON THE SLAVERY QUESTION.

Whereas, the people of North Carolina have ever cherished
 2 a lively and cordial attachment to the Union of the States, and
 3 entertain the most sincere desire for its preservation; and
 4 whilst, in the opinion of this General Assembly, the slave
 4 holding States have suffered great wrong by some of the meas-
 6 ures enacted at the last session of Congress called the com-
 7 promise acts; yet as these measures have become the laws of
 8 the land, it is the duty of the South to acquiesce, so long as they
 9 shall be adhered to, and enforced in good faith, and so long as
 10 Congress shall abstain from the adoption of any other meas-
 11 ures, touching the institution of slavery, calculated either to en-
 12 danger its security, or to destroy the guaranties of the Consti-
 13 tution. Be it therefore

Resolved, That the fugitive slave act passed by Congress at
 2 its last session is in strict conformity with the provisions and re-
 3 quirements of the Constitution of the United States, and if car-
 4 ried into execution in good faith, is calculated to give security
 5 to slave property, and any failure on the part of the Federal
 6 Executive to enforce, or any attempt, on the part of the judi-
 7 cial authorities of the free States, to obstruct, its execution,
 8 would not only constitute just cause of complaint on the part
 9 of the South, but would be such a gross dereliction of duty,
 10 as could not fail to weaken those ties which bind together the
 11 States of the Union.

II. *Resolved*, That the abolition of slavery in the District of
 2 Columbia, the interdiction of the slave trade between the
 3 States, the refusal to admit any new State into the Union, be-
 4 cause of its recognition of the institution of slavery, the total
 5 repeal of the fugitive slave act or its modification so as essen-
 6 tially to impair its force and efficiency, would, in the opinion
 7 of this General Assembly, amount to such a clear, deliberate
 8 and palpable breach of good faith and flagrant abuse of power
 9 as to demand of the freemen of North Carolina, the most de-

10 terminated resistance, and justify them in uniting with the other
11 slave holding States to uphold and maintain their just and vio-
12 lated rights.

III. *Resolved*, That whenever all or any one of the acts
2 mentioned in the foregoing resolutions shall have been passed
3 by the Congress of the United States, the Governor of this
4 State be and he is hereby required to convene the General As-
5 sembly, at such time as he in his wisdom shall deem fit in or-
6 der to take into consideration the solemn duties which we owe
7 to ourselves as freemen, and of our then existing relations with
8 the Federal Government. And, whereas, it would be both
9 proper and expedient to restrict all trading intercourse with the
10 non-slaveholding States, so long as there shall exist a well
11 grounded apprehension either as to the repeal of the fugitive
12 slave act or its non-execution, and as there now exists just
13 grounds for such apprehension,

Be it therefore Resolved, That it is expedient to impose an
2 *ad valorem* tax upon all articles of merchandise of the growth,
3 manufacture or product of the non-slaveholding States, which
4 shall be brought into and be offered for sale within this State,
5 from and after the first day of August next, *provided*, howev-
6 er, the Governor shall be authorised and required, by and with
7 the advice of the Council of State, to suspend the execution of
8 such law until the meeting of the next General Assembly, if it
9 shall satisfactorily appear that the Fugitive Slave Act hath been
10 faithfully executed.

REPORT

OF

THE SELECT COMMITTEE

ON

THE RE-OPENING OF NAG'S HEAD INLET

IN

North Carolina.

RALEIGH :

Thos. J. Lemay, Printer to the State.

1850..

REPORT

Dec. 9, 1850.

[Reported from the Committee by Mr. JOYNER. Read and ordered to be printed.]

THE REOPENING OF NAG'S HEAD INLET

State of North Carolina

HAIRBRIGHT

Thos. J. Linsley, Printer to the State

1850.

REPORT ON NAG'S HEAD.

The Select Committee on so much of the Governor's message as relates to re-opening the inlet at Nag's Head, between the Ocean and Albemarle Sound, have had the same under consideration, and very cordially concur in the sentiment avowed by the Governor, "that this work is of vast importance to the agricultural interests of a large portion of North Carolina, and important also to general commerce. It is a work justly appertaining to and eminently deserving the attention of the general government, and should be pressed upon the attention of Congress with a pertinacity and zeal that should command success." The committee deem it unnecessary to make a very labored report on this subject, but they consider it due to the occasion that certain views and facts should be presented, which in their opinion commend the contemplated work to the most favorable consideration of the Legislature. The proposed improvement is not a measure of recent origin. For more than twenty years it has engrossed a share of the public attention in that portion of the State more immediately interested, and has often attracted the favorable notice of the General Assembly.—About the year 1825, Hamilton Fulton, a distinguished engineer from England, then in the service of the State of North Carolina, was instructed to examine Albemarle Sound, and the neighboring sounds to ascertain the importance, the practicability, and the expense of re-opening the inlet at or near Nag's Head. He made the survey and examination in question and submitted an able report fully demonstrating the practicability of the work, its importance and necessity, and although it was declared to be an expensive work, its great benefits would justify the undertaking. Subsequently the government of the United States ordered a similar examination and survey, and appointed to perform this service three of the ablest engineers in the United States, one of whom at that time was considered the most scientific engineer in the world. In their report on this subject they fully concur in the plans and suggestions of Mr. Fulton. The committee take leave to insert a short extract from the report of the United States engineers: "If an

inlet be re-opened at the spot where one formerly existed, whether we consider the profits of commerce, the dangers of shipwreck, pursuit by an enemy, or convenience as a point of departure and refreshment for our privateers and vessels of war, a harbor would be formed, precisely in that part of the coast where one is most needed."

At a later period two or three other surveys were made by gentlemen distinguished in the science of engineering, whose reports in the main sustain and confirm those previously made on the same subject. Major Gwynn, one of the engineers above referred to, a gentleman of eminent ability and distinguished reputation, investigated with great care the burdens and losses sustained by the agricultural interest in the north eastern counties of this State, for the want of the contemplated improvement at Nag's Head. He says, in his report made to the Legislature in 1840, "assuming the tonnage which passes Ocracoke Inlet at one hundred thousand tons annually, the charge on vessels for lighterage and detention at the swash before they reach the bar, averages one dollar per ton, amounting to one hundred thousand dollars—the additional rate of insurance because of the risk is three fourths of one per cent. and amounts on the exports and imports, taking the same at three millions of dollars, to forty five thousand dollars, and on vessels to thirty thousand dollars per annum. 'This annual tax of one hundred and seventy-five thousand dollars upon the navigation of this section of country, independent of other evils, cannot but enhance the rate of freight, and the cost of conveyance to market; which suggestion is proved by the fact that the price of freight from Norfolk and Wilmington, the latter one hundred and twenty miles south of Ocracoke, is from 20 to 25 per cent, less than from the towns of the Albemarle. Estimating this enhanced freight as a tax upon produce of six per cent. only, we can fairly charge to the defects of this navigation an annual positive loss of three hundred and fifty-five thousand dollars.'" This estimate of loss made by Maj. Gwynn, who is a gentleman of great caution, and had rather fall under than go over the mark, is evidently too small—the difference of freight paid from Norfolk and Wilmington on the one side, and the towns situated on and near Albemarle Sound on the other, he estimates at from twenty to twenty-five per cent. in favor of the former; whereas, the

true actual difference is more than fifty per cent.; and when this difference is added to the aggregate loss as stated by him, it will swell the total loss to the sum of five hundred and thirty-five thousand dollars. But this is not the only evil growing out of the present defective navigation. Major Gwynn further remarks, "with-in a short period of years, the amount of property and lives lost on the coast immediately adjoining the Inlet proposed, to wit, for a distance of fifteen miles on each side of it, present a frightful list and a strong appeal to the protection and humanity of the government. During that period, as near as could be ascertained, one hundred and twelve vessels were wrecked, and with these vessels, two hundred and twenty-four souls found a watery grave." Early historians speak of Roanoke Inlet as a ship channel, and Sir Walter Raleigh's fleet passed through it into the Sound. In a chart drawn by James Wimble, and engraved under an act of Parliament in 1738, Roanoke Inlet, which is proposed to be re-opened, is represented as affording four fathoms water, through it, and it becomes a matter of some interest to ascertain how such an inlet, in the progress of time, should have been entirely closed. At the period above mentioned and for years afterwards, the waters emptying into Albemarle Sound from Roanoke, Chowan, Cashie, Perquimons, Pasquotank and other rivers, found an outlet to the Ocean in a great degree, through Roanoke Inlet, and so long as this volume of water continued to flow thus to the Ocean, it was sufficient to keep open the Inlet. At this time it must be observed, there was but a narrow passage through the marshes dividing Albemarle and Pamlico Sounds, and consequently but little water flowed from the one into the other—So long as this state of things existed no injurious effect was produced on Roanoke Inlet. But in process of time the narrow passage between the Sounds gradually widened, and with each successive increase the quantity of water passing through the channel was enlarged, and by constant abrasion finally produced a wide channel. The quantity of water flowing through Roanoke Inlet being thus gradually withdrawn and taking a new direction into Pamlico Sound, the depth of water in the inlet successively diminished, and it is now entirely closed. If timely attention had been bestowed, when the passage was narrow, and the proper barrier erected to prevent the flow of water from the one Sound into the other, which might have been erected at a small comparative expense, Roanoke Inlet would have remained open to this day, affording all the benefits and advantages of a direct, safe and speedy communication with the Sea, sustaining a large and prosperous commerce and navigation, and spreading its benefits and blessings over a large portion of North Carolina, and many of the other States of this Union. It is now proposed to close the communication or passage between the two Sounds, by suitable works at the proper place and thereby to cause the water of Albe-

marle Sound to seek a passage to the Ocean through the original channel. And why should it not be done by the General Government? Its great necessity and importance have been as fully established as human testimony can prove any thing. It is a work designed for the safety and protection of the coasting and foreign commerce of the country, placed by the constitution of the United States, under the exclusive and peculiar care of Congress, and is clearly within the powers and duties of the General Government. The right to levy and collect duties on imports, which once belonged to North Carolina in common with the other States previous to the formation of the constitution, has been by that instrument surrendered to Congress, and with that surrender the power and duty of protecting and fostering that commerce have been cast upon the General Government. North Carolina has quietly and without complaint borne her full share of the burdens of the Government; she has not murmured at benefits conferred by the government on her sister States, but she has a just claim to equality of rights and advantages out of the common treasury of the nation, and should never hesitate to assert them on suitable occasions. Scarcely a Congress has existed for the last thirty or forty years, without making appropriations for works of a character similar to the one now under consideration.— In this way tens of thousands, hundreds of thousands and millions of the public money have been expended for the more immediate benefit of other States, while the just claims of this State have been overlooked or neglected. The question very naturally arises, how has this happened? and this question, it seems to the committee, can not be of difficult solution. The members of Congress representing the Edenton district, have from time to time brought this subject to the attention of Congress, and with commendable zeal and ability supported the just claims of the State, but they have not been supported and sustained as they should have been either by the people or the Legislature. The committee, however, take great pleasure in representing to the Senate, that the people in the part of the State more directly interested have been fully aroused to a proper sense of the grievous burdens and disadvantages to which they are subjected, and, during the present year, held at Plymouth, one of the most respectable and numerous attended conventions ever witnessed in the State of North Carolina. It was composed of Whigs and Democrats, and politicians of every hue and shade, all heartily joining with each other, without a dissenting voice, in urging the just claims of this work. A memorial to Congress in favor of it was adopted with entire unanimity, and is now before the present Session. The convention resolved that they would never cease to insist upon the accomplishment of this indispensable improvement, and that they would meet twice in each year until

their reasonable request was granted by Congress. The committee believe that nothing more is wanting to ensure success, than the expression of a favorable opinion by the General Assembly now in session—and to this end they respectfully submit the accompanying resolutions, and ask that they be adopted.

A. JOYNER, CHAIRMAN.

RESOLUTIONS.

Resolved by the General Assembly of the State of North Carolina, That the re-opening of the Inlet at or near Nag's Head, between the ocean and Albemarle sound, is a work of deep importance to a very large and wealthy portion of this State, and of vast advantage to the general commerce and navigation of the whole country.

II. *Resolved,* That this work is peculiarly within the powers and duty of the General Government, and that Congress will fail in one of its great duties to the State of North Carolina, and to the commerce and navigation of the country, if the necessary appropriation of money for the construction of this great work is not promptly made, and the work prosecuted to completion with all reasonable dispatch.

III. *Resolved further,* That it is a matter of just complaint, on the part of the people of North Carolina, that this work has been so unreasonably delayed, and its further delay will be considered a palpable wrong and injustice to the State, as one of the members of the Confederacy, possessing equal rights, and bound to equal duties with her sister States, which cannot fail to produce great discontent and dissatisfaction.

IV. *Resolved,* That our Senators and Representatives in Congress be requested to use their best exertions to effect the object contemplated by the foregoing resolutions.

[SENATE DOC. NO. 51.]

RESOLUTION ON INTERNAL IMPROVEMENT.

10th Dec. 1850.

[Introduced by Mr. WOODFIN. Ordered to be printed, and made the order of the day for Tuesday next.]

I. *Be it Resolved by the General Assembly of the*
2 *State of North Carolina,* That it is the true policy of
3 the State to encourage the extension of the North Caro-
4 lina Rail Road west to Knoxville, Tennessee, and east
5 from Goldsboro' to Beaufort or Newbern; and as a
6 means of securing this improvement for the benefit of
7 the State, Charters ought to be granted to companies to
8 make the respective portions of said Road on the terms
9 of the Charter granted heretofore to the North Carolina
10 Rail Road Company.

RESOLUTION

IN RELATION TO

THE RALEIGH AND GASTON

RAIL ROAD.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[SENATE DEC 29]

RESOLUTION

Dec. 11, 1850,

[Introduced by Mr. JOYNER. Ordered to be printed, and made the order of the day for Saturday next.]

THE FAIRBANKS AND CANTON

RAIL ROAD.

THOMAS J. LEMAY, Printer to the State.

1850.

RESOLUTION.

Whereas the Raleigh and Gaston Railroad is now the
2 property of the State, and is in a most ruinous and dilap-
3 idated condition, discreditable to the owner, and afford-
4 ing but little comparative advantage to the public; and
5 unless it be re-constructed, all operations on the road must
6 in a short time entirely cease:

Resolved, therefore, That it is expedient to re-construct
2 the said road upon the following terms and conditions:
3 That a company be incorporated, with a capital stock of
4 eight hundred thousand dollars, to rebuild the said road
5 with a heavy T or other iron equally good, weighing not
6 less than fifty-one and a half pounds to the lineal yard,
7 and to properly stock and equip the said road; that the
8 entire road, with all the property of every description ap-
9 pertaining to the same, shall form a part of the said capi-
10 tal, to the amount of four hundred thousand dollars, to
11 be owned by the State; that solvent individuals subscribe
12 for four hundred thousand dollars to the capital stock of said
13 company, and after having expended one half thereof in
14 the re-construction of said road, the President and Direc-
15 tors of the said company be authorised to mortgage the
16 one half of said road belonging to individuals to enable
17 them to purchase iron and other materials for its complete
18 equipment; that one half of said road, when thus recon-
19 structed and equipped, shall belong to the said individual
20 subscribers; and that preference be given for thirty days
21 after the rise of the present General Assembly, to the in-

22 dividual stockholders of the late Raleigh and Gaston Rail-
 23 Road Company to subscribe for the four hundred thou-
 24 sand dollars contemplated by this resolution, or any part
 25 thereof; after which time, if not then taken, the subscrip-
 26 tion to be open to all persons.

RESOLUTION

Whereas the Raleigh and Gaston Railroad is now the
 property of the State, and is in a most ruinous and dilap-
 idated condition, disserviceable to the owner, and afford-
 ing but little comparative advantage to the public; and
 unless it be re-constructed, all operations on the road will
 be in a short time entirely ceased:

Resolved, therefore, That it is expedient to re-construct
 the said road upon the following terms and conditions:
 1 That a company be incorporated, with a capital stock of
 2 eight hundred thousand dollars, to rebuild the said road
 3 with a heavy T or other iron equally good, weighing not
 4 less than fifty-one and a half pounds to the linear yard,
 5 and to properly track and equip the said road; that the
 6 entire road, with all the property of every description ap-
 7 pertaining to the same, shall form a part of the said capi-
 8 tal, to the amount of four hundred thousand dollars, to
 9 be owned by the State; that solvent individuals subscribe
 10 for four hundred thousand dollars to the capital stock of said
 11 company, and after having expended one half thereof in
 12 the re-construction of said road, the President and Treas-
 13 urer of the said company be authorized to mortgage the
 14 one half of said road belonging to individuals to enable
 15 them to purchase iron and other materials for its comple-
 16 tion; that one half of said road, when thus re-con-
 17 structed and equipped, shall belong to the said individual
 18 subscribers; and that preference be given for thirty days
 19 after the rise of the present General Assembly, to the re-

[HOUSE Doc. No. 53.]

RESOLUTIONS

ON THE

SLAVERY QUESTION,

INTRODUCED BY

MR. S. P. HILL.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

House of Commons, Dec. 10.

Presented by Mr. S. P. HILL.

Read first time and passed, and on motion of Mr. S. P. HILL ordered to be laid on the table and printed and made the order of the day for Monday next.

RALEIGH

Thos. J. Jersey, Printer to the State.

1860.

RESOLUTIONS

ON

SLAVERY.

I. *Resolved*, That the repeal or modification of the
2 fugitive slave law by the Representatives and Senators
3 from the non-slaveholding States, or if it is rendered inop-
4 erative by the constituted authorities of the Northern
5 States, will be conclusive evidence to the people of this
6 State, that the aforesaid States desire and intend a disso-
7 lution of this Union: therefore, under such circumstan-
8 ces, the people of this State will not hesitate to gratify
9 them.

II. *Resolved*, That whenever there is a repeal or mod-
2 ification of the fugitive slave law, so as to weaken and
3 destroy its force and efficiency by the Senators and Rep-
4 resentatives from the non-slaveholding States, or whenev-
5 er it is rendered inoperative by the constituted authorities
6 of the aforesaid States, the Governor of this State is here-
7 by authorised and required to convene the Legislature
8 of this State, at the earliest date after the happening of
9 either of the aforesaid events, in order to take into con-
10 sideration the ways and means by which the happiness
11 of the people of North Carolina is to be advanced, their
12 property protected and their liberties preserved.

III. *Resolved*, That the Governor of this State is hereby requested to forward a copy of these resolutions to the Governor of each State in this Union, with the request that they be submitted to the Legislatures of said States; and also that a copy be sent to our Senators and Representatives in Congress with the request that they lay them before their respective Houses.

[HOUSE DOC. 54.]

RESOLUTIONS,

REPORTED BY

MR. R. M. SAUNDERS,

FROM

THE COMMITTEE

ON

Negro Slavery.

RALEIGH: .

Thos. J. Lemay, Printer to the State.

1850.

House of Commons, December 10.

Reported by Mr. R. M. SAUNDERS, from the Committee on Negro Slavery.

Read 1st time and passed, and on motion of Mr SAUNDERS, ordered to be printed and made the order of the day for Monday next, and referred to a committee of the whole.

THE COMMITTEE

ON

Slavery

RALEIGH :

Thos. J. Lemay, Printer to the State.

1850.

RESOLUTIONS ON THE SLAVERY QUESTION.

Whereas, the people of North Carolina have ever cherished
2 a lively and cordial attachment to the Union of the States, and
3 entertain the most sincere desire for its preservation; and
4 whilst, in the opinion of this General Assembly, the slave
4 holding States have suffered great wrong by some of the meas-
6 ures enacted at the last session of Congress called the com-
7 promise acts; yet as these measures have become the laws of
8 the land, it is the duty of the South to acquiesce, so long as they
9 shall be adhered to, and enforced in good faith, and so long as
10 Congress shall abstain from the adoption of any other meas-
11 ures, touching the institution of slavery, calculated either to en-
12 danger its security, or to destroy the guaranties of the Consti-
13 tution. Be it therefore

Resolved, That the fugitive slave act passed by Congress at
2 its last session is in strict conformity with the provisions and re-
3 quirements of the Constitution of the United States, and if car-
4 ried into execution in good faith, is calculated to give security
5 to slave property, and any failure on the part of the Federal
6 Executive to enforce, or any attempt, on the part of the judi-
7 cial authorities of the free States, to obstruct, its execution,
8 would not only constitute just cause of complaint on the part
9 of the South, but would be such a gross dereliction of duty,
10 as could not fail to weaken those ties which bind together the
11 States of the Union.

II. *Resolved*, That the abolition of slavery in the District of
2 Columbia, the interdiction of the slave trade between the
3 States, the refusal to admit any new State into the Union, *be-*
4 *cause* of its recognition of the institution of slavery, the total
5 repeal of the fugitive slave act or its modification so as essen-
6 tially to impair its force and efficiency, would, in the opinion
7 of this General Assembly, amount to such a clear, deliberate
8 and palpable breach of good faith and flagrant abuse of power
9 as to demand of the freemen of North Carolina, the most de-
10 termined resistance, and justify them in uniting with the other
11 slave holding States to uphold and maintain their just and vio-
12 lated rights.

III. *Resolved*, That whenever all or any one of the acts

2 mentioned in the foregoing resolutions shall have been passed
 3 by the Congress of the United States, the Governor of this
 4 State be and he is hereby required to convene the General As-
 5 sembly, at such time as he in his wisdom shall deem fit in or-
 6 der to take into consideration the solemn duties which we owe
 7 to ourselves as freemen, and of our then existing relations with
 8 the Federal Government. And, whereas, it would be both
 9 proper and expedient to restrict all trading intercourse with the
 10 non-slaveholding States, so long as there shall exist a well
 11 grounded apprehension either as to the repeal of the fugitive
 12 slave act or its non-execution, and as there now exists just
 13 grounds for such apprehension,

Be it therefore Resolved, That it is expedient to impose an
 2 *ad valorem* tax upon all articles of merchandise of the growth,
 3 manufacture or product of the non-slaveholding States, which
 4 shall be brought into and be offered for sale within this State,
 5 from and after the first day of August next, *provided*, however,
 6 the Governor shall be authorised and required by, and with the
 7 advice of the Council of State, to suspend the execution of such
 8 law until the meeting of the next General Assembly, if it shall
 9 satisfactorily appear that the Fugitive Slave Act hath been faith-
 10 fully executed.

[HOUSE Doc. 55.]

REPORT AND RESOLUTIONS

OF THE

MINORITY OF THE COMMITTEE

ON

NEGRO SLAVERY.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

Dec. 11, 1850.

[Submitted by Mr. AVERY. Resolutions were read the first time and passed, and, on motion of Mr. Avery, ordered to be printed, together with the report, and referred to Committee of the Whole, and made order of the day for Monday next.]

REPORT

The minority of the committee, to whom was referred sundry resolutions upon the subject of negro slavery and federal relations, in addition to the resolutions agreed on by the committee, ask leave to report to the Legislature additional resolutions, to which they request their assent :

The minority believe that the time has arrived when it becomes a matter of imperious necessity, both for the salvation of the Union, and the correct administration of the General Government, that the States should ascertain distinctly whether they have any rights, or whether the tenth section of the amendments to the Constitution meant nothing, and should be considered as meaning nothing.

It cannot be denied, that since the establishment of the constitution of the United States, there has existed two parties in the country, one contending, that said Constitution delegated only certain enumerated and defined powers, and that all the powers, incident to sovereignty, which were not therein granted, were reserved to the States respectively ; the other party contending that the Government created by that instrument was a consolidated Government with no limit to its power, but its sovereign will and pleasure. Although in the career of ambition, and the strife of sectional interests, these great landmarks of party may have been forgotten for a time, or partially obliterated, still, in the opinion of the undersigned, they cannot be overlooked, without great danger to the people, and a final overthrow of our republican system of Government. To the neglect or forgetfulness of the limited character of our Government, are solely to be attributed our present difficulties and dangers. When we regard the vast extent of the American Union, reaching from the Atlantic to the Pacific Ocean, embracing in its wide domain individuals of every habit and nation, and every variety of interest, it requires very little political sagacity to foresee, that if we acquiesce in the doctrine, that the Government at Washington is all powerful, and that the States have no rights, we will very soon erect an imperial tyranny under the form and outward show of a Republic.

Let us regard for a moment what would be the condition of the slaveholding States under a consolidated Government.

A consolidated Government must always respond to the wishes of a majority of the aggregate mass of the whole people of the United States. And can we doubt what that wish is now, or shortly will be, upon the subject of slavery? If we do, we must shut our eyes to numerous signs which are visible in every part of the political horizon. It is said, Congress will never interfere with slavery within the bounds of a State! Even suppose we could have the most undoubted assurance of this fact, there are means of annoyance and destruction of this institution without venturing within the limits of a State, which an all powerful and consolidated Government can easily put into operation. The individual right of resistance to tyranny, or revolution, was certainly not all that was meant by our complicated theory of Government; if it was, a great deal of useless labor was taken to express a right we enjoy in common with the poorest slave, or the humblest worm which is trod upon—the mere robber's right—

“That they should take who have the power,
And all should keep who can.”

It would be an humble boast of our experiment in the seience of Government to admit, that it meant nothing more than this.

The wise men who framed our Government, were not only lovers of liberty, but they established certain checks and balances with a hope of preserving and perpetuating that liberty, and among the chief and most efficient of these, were the rights reserved to the States, in their organized communities as political powers. The true question then for us to decide, is this, does the State of North Carolina, as an organized political community, possess the right to secede or withdraw from the Union, in case the General Government wilfully omits or refuses to fulfil her constitutional obligations, or in order to protect her citizens against an unconstitutional or oppressive act of the General Government; and for the purpose of making that protection effectual, can she command the undivided allegiance and assistance of all the inhabitants within her territory?

Unless the people of the State possess this right, and have not surrendered it by the Constitution of the United States, it is sheer folly to talk of their reserved rights—they have none, and the sooner it is known, the better it will be for all the parties concerned. This right was undoubtedly intended by the framers of our theory of Government as the great

safety value of the Union—the only means by which it could be preserved, and prevented from rushing, upon one hand, into consolidation, to the destruction of our liberty; and upon the other, into insurrections and domestic violence, destructive of all order.

It is said by many, who admit the right to exist, that it is imprudent *now* to assert it. The minority cannot perceive any imprudence in asserting it; but on the contrary, they believe, that its distinct and unequivocal avowal, will do more to settle our difficulties, and awaken the whole North to the danger she is bringing upon the Union, than all the resolutions of resistance and rebellion we can pass. The majority of the people of a State will never consent to withdraw from the Union, except upon the most solemn deliberation, and the fullest conviction, that such a step is the only resource left them to protect their rights from intolerable tyranny and oppression.

Among the few subjects which could possibly induce a State to withdraw from the Union, negro slavery stands pre-eminent. This institution forms the substratum of southern society. It is so intimately connected with our social and domestic relations, that its destruction, or material injury, would not only produce universal poverty, but overthrow States. This vast institution is unknown to a majority of the States of the Union, and is regarded with hostility by a majority of the people of those States; certainly then, if any question can ever arise, of sufficient magnitude to call into action any reserved powers, which may exist, for the preservation of the Union and protection of the people, this question is one.

The minority believe it is a grievous error and a bitter sarcasm against the honor and justice of the people of the United States, to assert, that the exercise of this power would necessarily destroy our Union. The Constitution of the United States makes provision for its amendment; should any one State determine to withdraw from the Union, before taking that step, she would doubtless inform the rest of the States, and the world, of the reasons which had induced her to take so solemn and important a position. Would it not then be the interest, as well as the duty, of the other States, so to amend the Constitution of the United States, as to dissipate all such fears, and remove the danger which had forced the withdrawing State from the Union? We are continually amending State Constitutions; why is it we cannot amend the Constitution of the United States? Is that the only instrument of the kind which is so perfect, that it can-

not be amended? Let the constant agitation and discussion of its powers answer the question. Upon this slave question alone, why should not the Constitution be so amended, as to calm the fears of the Southern people, and place it beyond a doubt, that Congress never would, in any manner, attempt to interfere with it, nor deny to the southern States their rights as equal members of the confederacy. No doubt, a State, previous to withdrawing from the Union, would propose to the other States such amendments to the Constitution as she might think her safety required, and it would be for the other States to decide, whether such amendments were unjust or could not be assented to.

But certainly it is unworthy of American wisdom and experience to say, this constitution cannot be amended, or that we cannot trust the justice and fairness of our countrymen with the task of amending it. The non-slaveholding States certainly, could not object to settle this question forever, and place it for all future time beyond the reach of political agitation, unless they intend hereafter, when might makes right, to avail themselves of a doubtful or contested power for some injurious purposes.

Should the State of North Carolina admit, that she has no right under any circumstances to withdraw from the Union, but must rely for her protection upon what has been called her natural rights, and resort to rebellion or insurrection, she releases thereby her own citizens from all allegiance to obey her commands; for, if she has parted with all her sovereignty, she has no claim to obedience in such an emergency. She may raise the standard of revolt, and collect around her banner all the disaffected and discontented, but in doing so she admits she is guilty of treason, and all who follow her fortunes, may share the fate of traitors. In all civil conflicts "the king's name" is a tower of strength," and the soldier is doubly armed, who believes, that his cause is not only just, but lawful.

The right to withdraw from the Union, as a last appeal to the justice and forbearance of the other States, the minority believe is not only indispensable for the safety of the States, but is in strict conformity with our theory and form of government, and was so understood and meant by its framers; else, why was the tenth amendment attached to the Constitution, which expressly reserves to the States all powers not granted? This amendment was attached to the Constitution at the instance of those States which, by their acts of ratification, expressly required it, and among them, none were more urgent than Massachusetts. That State ratified

the Constitution with this proviso: "That it be explicitly declared, that all powers not expressly delegated by the aforesaid Constitution, are reserved to the *several States to be by them exercised.*"

What these reserved powers were, or how they were to be exercised, the minority cannot comprehend, if the ultimate right herein insisted on, is denied or abandoned.

The minority will not insult the understandings of the members of the Legislature, by an argument to convince them, that the right herein contended for, is very dissimilar from nullification, nor can it be confounded with that doctrine, except by individuals who are willing to deceive the people to aid their selfish and sinister purposes.

In conclusion, the minority, for fear of misapprehension, beg leave to state, that they propose the following resolutions, with no view of advocating or arguing disunion; on the contrary, they yield to none, in their sincere attachment to the Union of the States. They believe the Constitution of the United States, honestly and fairly administered, the greatest triumph of human intellect and virtue, but that in order to insure the objects for which it was ordained, it should be administered with the same justice and forbearance, towards the weaker members of the confederacy, with which it was established. When, however, it ceases to pursue the glorious objects of its institution, and is seized upon by a dominant majority to insult and oppress a smaller portion of the confederacy, the only refuge from intolerable tyranny and oppression will be found under the banner of the several States.

With the view, therefore, of asserting the rights of the States, and convincing the world, that the people of North Carolina do not deny a primary allegiance to their native State, but as an ultimate resort, will rally around her banner in the hour of trial and danger, as the ark of their salvation, the minority propose the following resolutions, and ask their adoption :

Respectfully submitted,

HENRY T. CLARK.
WM. B. SHEPARD.
G. W. CALDWELL,
W. W. AVERY,
SAML. J. PERSON,
SAML. N. STOWE,
MARCEUS ERWIN.
W. J. BLOW.

RESOLUTIONS.

Resolved, That the Constitution of the United States is a compact between sovereign and independent States, and all powers not therein delegated, are reserved to the States respectively—that among the attributes of sovereignty retained by the several States, is that of watching over the operations of the General Government, and protecting her citizens from unconstitutional abuse on the one hand, and securing to them, on the other, a strict fulfilment of the obligations imposed by the Constitution upon the General Government.

Resolved, That the people of North Carolina, as an organized political community, have the right to secede or withdraw from the Union, whenever a majority of the people, in convention assembled, shall decide a withdrawal necessary to protect their property or persons from unconstitutional and oppressive legislation by the General Government, or whenever, by the failure of the General Government to fulfil her Constitutional obligations, the people of the State may deem such a step necessary, in order to secure the enjoyment of the rights, privileges and protection guarantied to them by the Constitution of the United States; and in such an emergency, a majority of the people of North Carolina, acting through the organized authorities of the State, would be entitled to the sole and undivided allegiance of all her citizens.

RESOLUTIONS

ON

THE SUBJECT OF SLAVERY.

SUBMITTED BY

Mr. RAYNER.

ON

THE 10th DEC., 1850.

RALEIGH:

THOMAS J. LEMAY, PRINTER TO THE LEGISLATURE

.....

1850..

[House Doc. No.]

RESOLUTIONS

Dec. 10, 1850.

[Introduced by Mr. RAYNER. Read first time and passed, and on motion of Mr. Rayner, ordered to lie on the table and be printed.]

INTRODUCED BY

MR. RAYNER.

OF

THE 10TH DEC, 1850.

RAYNER:

THOMAS J. LEWIS, PRINTER TO THE LEGISLATURE.

1850

RESOLUTIONS ON SLAVERY.

WHEREAS, the continued agitation of the various questions connected with the subject of Negro Slavery in the Southern States, is fraught with the most serious and portentous consequences ; and, *whereas*, the people of the slaveholding States, feeling duly impressed with a sense of what are their rights, are determined to maintain and defend those rights by all constitutional and lawful means ; and *whereas*, the Union of these States, which was designed by its founders, and adopted by the people the respective States, "in order to establish justice, ensure domestic tranquility, and secure the blessings of liberty to them, and to us their posterity," should be sustained and protected, until time and experience have proven it to be utterly incompetent to the answering of these great purposes ; and, *whereas*, in case it should become necessary for the slaveholding States to resort to a redress of their grievances growing out of Northern interference with their domestic institutions, that object can be much more effectually attained by unanimity and concert of action, than by local legislation, or irresponsible conventions :

I. *Therefore resolved*, That the institution of slavery, as it exists in the Southern States, is a subject with which the people of the North have neither the constitutional power nor the moral right to interfere, either directly or indirectly—either by legislative enactment or social organization ; and that all such interference should be resented as an unwarranted assault upon our rights.

II. *Resolved*, That the territorial lands of the United States, whether purchased by the common treasure, or conquered by the common arms, ought to be free to the common enterprise and open to the common emigration of the people of all sections alike ; that any discrimination by Congress, which shall proscribe the owners of any species of property peculiar to any section, would be subversive of that "justice and domestic tranquility," and those "blessings of liberty, which the constitu-

tion was designed "to establish, ensure and secure;" and that any amendment of the territorial bills passed at the last session of Congress, which shall make such discrimination, would authorise and demand of the slave holding States, measures of retaliation, as hereinafter suggested.

III. *Resolved*, That the owners of slaves in the District of Colombia, hold that kind of property under the guaranty of the constitution, which declares that "no person shall be deprived of life, liberty or property, without due process of law;" and that those who remove slaves from one slaveholding State to another, whether for the purpose of sale or settlement, are entitled, under the Constitution, to all the rights and privileges of slave owners, in the States where they may happen to be; that the abolition of slavery in said District of Columbia, would further involve a gross breach of faith towards one of the slaveholding States; that such abolition in said District, or such interdiction of the removal of slaves from one slave-holding State to another, could be regarded in no other light, than as a blow aimed at slavery in the States; that the passage of either of those measures by Congress, could not fail to exert a most injurious influence on the institution of slavery throughout the South; and would authorise and require of the slaveholding States those retaliatory measures hereinafter suggested.

IV. *Resolved*, That the series of acts passed at the last session of Congress, constituting what is generally termed "the compromise," viz: the act admitting California as a State—the act establishing a territorial government for Utah—the act for the adjustment of the Texas boundary, and establishing the territorial government of New Mexico—the act providing for the surrender of fugitive slaves—and the act abolishing the slave trade in the District of Columbia—having become the laws of the land, are obligatory on all sections, States, communities and persons, and ought to be obeyed; and the Executive is bound by the most solemn obligations to see that they are enforced, should any resistance be offered to their execution.

V. *Resolved*, That the people of the slaveholding States yielded much in some of the measures of that "compromise," for the sake of conciliation and peace, with scarcely a remunerating benefit in the passage of the act for the surrender of

5 fugitive slaves ; that the repeal of said fugitive slave law would
 6 be a manifest breach of faith on the part of Congress, to which
 7 the people of the South cannot, ought not, and will not quietly
 8 submit ; and that in case of such repeal, the retaliatory meas-
 9 ures on the part of the slaveholding States, as hereinafter sug-
 10 gested, would be authorised and demanded by the occasion.

VI. *Resolved*, That any system of organized opposition to
 2 the execution of the said fugitive slave law, in the non-slave-
 3 holding States, either by legislative enactments, by local police
 4 regulations, by lawless violence, or by overawing demonstra-
 5 tions of physical force, the result of which shall be to render
 6 this law practically inoperative, will also justify and require
 7 of the slaveholding States those retaliatory measures hereinaf-
 8 ter suggested.

VII. *Resolved*, That North Carolina entertains the most
 2 sincere and abiding attachments to the Union of these States ;
 3 that we will maintain and defend the Union, and sustain the
 4 constituted authorities of the government, as long as the same
 5 can be done, consistently with the preservation of our liberties,
 6 and the enjoyment of those rights and privileges which the
 7 Union was designed to secure, and the government to protect ;
 8 that it behooves the Southern States to resort to every mode of
 9 redress not incompatible with the Constitution, before they
 10 should contemplate the alternative of disunion ; and that if dis-
 11 sension must come, they should so act, as to throw the respon-
 12 sibility on those who are disposed wantonly to insult us and to
 13 invade our rights.

VIII. *Resolved*, That in case Congress should hereafter ^{so}
 2 alter the laws of the last session establishing territorial govern-
 3 ments, as to apply to them the principles of the Wilmot Pro-
 4 viso—or should repeal the law providing for the surrender of
 5 fugitive slaves, or so change that law as to render it ineffectual
 6 for the accomplishment of the purposes designed by it—or
 7 should pass any law for the abolition of the institution of slave-
 8 ry in the District of Columbia, or interdicting the removal of
 9 slaves from one State to another—it will then be the duty of
 10 the slaveholding States to send delegates, *to be appointed un-*
 11 *der the authority of law*, to a convention ; the business and
 12 authority of which convention shall be, to devise and recom-

13 mend to the said slaveholding States respectively, such retaliatory measures not inconsistent with the constitution, as may be demanded by the exigencies of the occasion, and with a view to the attaining that unanimity and concert of action, without which all attempts at redress will be in vain.

IX. *Resolved*, That it be, and hereby is recommended to the respective slaveholding States of the Union, to provide by law for the assembling of their Legislatures, for the purpose of regulating under the authority of law the appointment of delegates to said convention, in case of such change by Congress of the territorial bills of the last session, or of the repeal or modification of the fugitive slave law as before suggested, or of the abolition of slavery in the district of Columbia, or the interdiction of the removal of slaves from one State to another—and in case of the necessity of holding said convention, each State should be entitled to the same number of delegates as it will be entitled to electoral votes for President and Vice President of the U. States under the census just taken—the manner of appointing said delegates to be regulated by law in each State, as the Legislature thereof may provide—a majority of the delegates appointed to said convention to constitute a quorum—the manner of voting to be regulated by the convention itself—and that it shall be the duty of the said convention when assembled to devise and recommend a series of retaliatory measures, not violative of the constitution of the U. States, to the Legislatures of the slaveholding States, for their adoption.

X *Resolved*, That the following propositions, among others, be submitted to the notice of the slaveholding States, as proper for the consideration of the said convention, in case its assemblage should be necessary under either of the contingencies before suggested—viz:
 6 The passage of a law (preceded by an amendment of the State constitution, where necessary) providing for reducing to a state of slavery all the free negroes in their respective limits, in case they do not leave the State within a certain prescribed period—and the further permanent provision of disallowing freedom to any colored person within the fourth degree.
 12 The imposing a personal tax either specific or *ad-valorem*, by the State Legislatures, on all persons who sell goods, wares,

14 or merchandise, either the manufacture or growth of, or pur-
15 chased in, a non-slaveholding State.

16 The granting of bounties by the respective States, to manu-
17 facturing capital and industry, and the exemption of the same
18 from taxation.

19 The imposition of a *ne excat* tax of so much per cent. on all
20 monies expended in the non-slaveholding States, whether for
21 purposes of travel or of pleasure, the education of youth, and
22 all purchases made in the same, whether in person or by or-
23 der: And such other retaliatory measures, the details of all
24 of which to be regulated by law, not inconsistent with the con-
25 stitution of the U. States, as may be deemed advisable.

XI. *Resolved*, That in case a majority of the slaveholding States
2 shall, through their respective Legislatures, respond favora-
3 bly to these propositions—then, in case of any change by
4 Congress of the territorial laws of the last session, which shall
5 apply to them the principles of the Wilmot Proviso—or of the
6 repeal, or modification so as to render it incompetent for the
7 purpose designed, of the fugitive slave law of the last
8 session—or of such resistance generally to the execu-
9 tion of said fugitive slave law, in the non-slaveholding States,
10 as shall render it practically inoperative—or of the abolition of
11 slavery, by Congress, in the District of Columbia—or of the
12 interdiction of the removal of slaves from one State to another—
13 the Governor of this State be, and he is hereby requested to
14 convene the Legislature of this State, by proclamation, for the
15 purpose of providing, by law, for the appointment of delegates
16 to represent this State in said proposed convention of the slave-
17 holding States, and of taking such further steps in the prem-
18 ises, as may be thought meet and proper for the occasion.

XII. *Resolved*, That whilst we are not to be understood
2 as herein expressing any opinion in regard to the policy of a
3 Tariff of protection, or of the influence of such a system upon
4 the interests of the Southern States—or as to the course which
5 should be pursued by Southern members of Congress, upon
6 this subject, did the causes of our complaints not exist, or
7 should they be hereafter removed—yet, as the non-slavehold-
8 ing States are so much more deeply interested in such protec-
9 tion than the slaveholding States can now be; we, therefore,

10 think that the Senators and Representatives in Congress from
11 the slaveholding States should firmly oppose all increase of
12 duties on foreign importations, as long as public opinion in the
13 North shall tolerate fanatics in their resistance or evasion of
14 the fugitive slave law, and the interference, by agitators, with
15 our domestic affairs.

XIII. *Resolved*, That the Governor of this State be re-
2 quested to transmit duly certified copies of these resolutions to
3 each of our Senators and Representatives in the Congress of
4 the United States; and that they be requested to lay them be-
5 fore their respective Bodies—and also a copy to the Governor
6 of each and every State in the Union, with a request that they
7 be laid before their respective Legislatures.

[SENATE Doc. 57.]

REPORT AND RESOLUTIONS

OF THE

MINORITY OF THE COMMITTEE

ON

NEGRO SLAVERY.

RALEIGH:

T. J. Lemay, Printer to the State,

1850.

Dec. 11, 1850.

[Submitted by Mr. CLARK. Resolutions were read the first time and passed, and, on motion ordered to be printed, together with the report, and made order of the day for Monday next.]

REPORT

The minority of the committee, to whom was referred sundry resolutions upon the subject of negro slavery and federal relations, in addition to the resolutions agreed on by the committee, ask leave to report to the Legislature additional resolutions, to which they request their assent :

The minority believe that the time has arrived when it becomes a matter of imperious necessity, both for the salvation of the Union, and the correct administration of the General Government, that the States should ascertain distinctly whether they have any rights, or whether the tenth section of the amendments to the Constitution meant nothing, and should be considered as meaning nothing.

It cannot be denied, that since the establishment of the constitution of the United States, there has existed two parties in the country, one contending, that said Constitution delegated only certain enumerated and defined powers, and that all the powers, incident to sovereignty, which were not therein granted, were reserved to the States respectively ; the other party contending that the Government created by that instrument was a consolidated Government with no limit to its power, but its sovereign will and pleasure. Although in the career of ambition, and the strife of sectional interests, these great landmarks of party may have been forgotten for a time, or partially obliterated, still, in the opinion of the undersigned, they cannot be overlooked, without great danger to the people, and a final overthrow of our republican system of Government. To the neglect or forgetfulness of the limited character of our Government, are solely to be attributed our present difficulties and dangers. When we regard the vast extent of the American Union, reaching from the Atlantic to the Pacific Ocean, embracing in its wide domain individuals of every habit and nation, and every variety of interest, it requires very little political sagacity to foresee, that if we acquiesce in the doctrine, that the Government at Washington is all powerful, and that the States have no rights, we will very soon erect an imperial tyranny under the form and outward show of a Republic.

Let us regard for a moment what would be the condition of the slaveholding States under a consolidated Government.

A consolidated Government must always respond to the wishes of a majority of the aggregate mass of the whole people of the United States. And can we doubt what that wish is now, or shortly will be, upon the subject of slavery? If we do, we must shut our eyes to the numerous signs which are visible in every part of the political horizon. It is said, Congress will never interfere with slavery within the bounds of a State! Even suppose we should have the most undoubted assurance of this fact, there are means of annoyance and destruction of this institution without venturing without the bounds of a State, which an all powerful and consolidated Government can easily put into operation. The individual right of resistance to tyranny, or revolution, was certainly not all that was meant by our complicated theory of Government; if it was, a great deal of useless labor was taken to express a right we enjoy in common with the poorest slave, or the humblest worm which is trod upon—the mere robber's right—

“That they should take who have the power,
And all should keep who can.”

It would be an humble boast of our experiment in the science of Government to admit, that it meant nothing more than this.

The wise men who framed our Government, were not only lovers of liberty, but they established certain checks and balances with a hope of preserving and perpetuating that liberty, and among the chief and most efficient of these, were the rights reserved to the States, in their organized communities as political powers. The true question then for us to decide, is this, does the State of North Carolina, as an organized political community, possess the right to secede or withdraw from the Union, in case the General Government wilfully omits or refuses to fulfil her constitutional obligations, or in order to protect her citizens against an unconstitutional or oppressive act of the General Government; and for the purpose of making that protection effectual, can she command the undivided allegiance of all the inhabitants within her territory?

Unless the people of the State possess this right, and have not surrendered it by the Constitution of the United States, it is sheer folly to talk of their reserved rights—they have none, and the sooner it is known, the better it will be for all the parties concerned. This right was undoubtedly intended by the framers of our theory of Government as the great

safety value of the Union—the only means by which it could be preserved, and prevented from rushing, upon one hand, into consolidation, to the destruction of our liberty; and upon the other, into insurrections and domestic violence, destructive of all order.

It is said by many, who admit the right to exist, that it is imprudent *now* to assert it. The minority cannot perceive any imprudence in asserting it; but on the contrary, they believe, that its distinct and unequivocal avowal, will do more to settle our difficulties, and awaken the whole North to the danger she is bringing upon the Union, than all the resolutions of resistance and rebellion we can pass. The majority of the people of a State will never consent to withdraw from the Union, except upon the most solemn deliberation, and the fullest conviction, that such a step is the only resource left them to protect their rights from intolerable tyranny and oppression.

Among the few subjects which could possibly induce a State to withdraw from the Union, negro slavery stands pre-eminent. This institution forms the substratum of southern society. It is so intimately connected with our social and domestic relations, that its destruction, or material injury, would not only produce universal poverty, but overthrow States. This vast institution is unknown to a majority of the States of the Union, and is regarded with hostility by a majority of the people of those States; certainly then, if any question can ever arise, of sufficient magnitude to call into action any reserved powers, which may exist, for the preservation of the Union and protection of the people, this question is one.

The minority believe it is a grievous error and a bitter sarcasm against the honor and justice of the people of the United States, to assert, that the exercise of this power would necessarily destroy our Union. The Constitution of the United States makes provision for its amendment; should any one State determine to withdraw from the Union, before taking that step, she would doubtless inform the rest of the States, and the world, of the reasons which had induced her to take so solemn and important a position. Would it not then be the interest, as well as the duty, of the other States, so to amend the Constitution of the United States, as to dissipate all such fears, and remove the danger which had forced the withdrawing State from the Union? We are continually amending State Constitutions; why is it we cannot amend the Constitution of the United States? Is that the only instrument of the kind which is so perfect, that it can-

not be amended? Let the constant agitation and discussion of its powers answer the question. Upon this slavery question alone, why should not the Constitution be so amended, as to calm the fears of the Southern people, and place it beyond a doubt, that Congress never would, in any manner, attempt to interfere with it, nor deny to the southern States their rights as equal members of the confederacy. No doubt, a State, previous to withdrawing from the Union, would propose to the other States such amendments to the Constitution as she might think her safety required, and it would be for the other States to decide, whether such amendments were unjust or could not be assented to.

But certainly it is unworthy of American wisdom and experience to say, this constitution cannot be amended, or that we cannot trust the justice and fairness of our countrymen with the task of amending it. The non-slaveholding States certainly, could not object to settle this question forever, and place it for all future time beyond the reach of political agitation, unless they intend hereafter, when might makes right, to avail themselves of a doubtful or contested power for some injurious purposes.

Should the State of North Carolina admit, that she has no right under any circumstances to withdraw from the Union, but must rely for her protection upon what has been called her natural rights, and resort to rebellion or insurrection, she releases thereby her own citizens from all allegiance to obey her commands; for, if she has parted with all her sovereignty, she has no claim to obedience in such an emergency. She may raise the standard of revolt, and collect around her banner all the disaffected and discontented, but in doing so she admits she is guilty of treason, and all who follow her fortunes, may share the fate of traitors. In all civil conflicts "the king's name is a tower of strength," and the soldier is doubly armed, who believes, that his cause is not only just, but lawful.

The right to withdraw from the Union, as a last appeal to the justice and forbearance of the other States, the minority believe is not only indispensable for the safety of the States, but is in strict conformity with our theory and form of government, and was so understood and meant by its framers; else, why was the tenth amendment attached to the Constitution, which expressly reserves to the States all powers not granted? This amendment was attached to the Constitution at the instance of those States which, by their acts of ratification, expressly required it, and among them, none were more urgent than Massachusetts. That State ratified

the Constitution with this proviso: "That it be explicitly declared, that all powers not expressly delegated by the aforesaid Constitution, are reserved to the *several States to be by them exercised.*"

What these reserved powers were, or how they were to be exercised, the minority cannot comprehend, if the ultimate right herein insisted on, is denied or abandoned.

The minority will not insult the understandings of the members of the Legislature, by an argument to convince them, that the right herein contended for, is very dissimilar from nullification, nor can it be confounded with that doctrine, except by individuals who are willing to deceive the people to aid their selfish and sinister purposes.

In conclusion, the minority, for fear of misapprehension, beg leave to state, that they propose the following resolutions, with no view of advocating or urging disunion; on the contrary, they yield to none, in their sincere attachment to the Union of the States. They believe the Constitution of the United States, honestly and fairly administered, the greatest triumph of human intellect and virtue, but that in order to insure the objects for which it was ordained, it should be administered with the same justice and forbearance, towards the weaker members of the confederacy, with which it was established. When, however, it ceases to pursue the glorious objects of its institution, and is seized upon by a dominant majority to insult and oppress a smaller portion of the confederacy, the only refuge from intolerable tyranny and oppression will be found under the banner of the several States.

With the view, therefore, of asserting the rights of the States, and convincing the world, that the people of North Carolina do not deny a primary allegiance to their native State, but as an ultimate resort, will rally around her banner in the hour of trial and danger, as the ark of their salvation, the minority propose the following resolutions, and ask their adoption :

Respectfully submitted,

HENRY T. CLARK, Ch'n,	} Senate.
WILLIAM B. SHEPARD,	
GREEN W. CALDWELL,	
W. W. AVERY,	} Commons.
SAML. J. PERSON,	
SAML. N. STOWE,	
MARCUS ERWIN,	
W. J. BLOW.	

RESOLUTIONS.

Resolved, That the Constitution of the United States is a compact between sovereign and independent States, and all powers not therein delegated, are reserved to the States respectively—that among the attributes of sovereignty retained by the several States, is that of watching over the operations of the General Government, and protecting her citizens from unconstitutional abuse on the one hand, and securing to them, on the other, a strict fulfilment of the obligations imposed by the Constitution upon the General Government.

Resolved, That the people of North Carolina, as an organized political community, have the right to secede or withdraw from the Union, whenever a majority of the people, in convention assembled, shall decide a withdrawal necessary to protect their property or persons from unconstitutional and oppressive legislation by the General Government, or whenever, by the failure of the General Government to fulfil her Constitutional obligations, the people of the State may deem such a step necessary, in order to secure the enjoyment of the rights, privileges and protection guarantied to them by the Constitution of the United States; and in such an emergency, a majority of the people of North Carolina, acting through the organized authorities of the State, would be entitled to the sole and undivided allegiance of all her citizens.

MINORITY REPORT

OF THE

SELECT COMMITTEE

ON

AMENDMENTS OF THE CONSTITUTION

OF

NORTH CAROLINA.



RALEIGH:

T. J. Lemay, Printer to the State.

1859.

36

Dec. 10, 1850.

[Submitted by Mr. STEVENSON, On motion of Mr. R. M. Saunders, ordered to lie on the table, and be printed.]

A MINORITY REPORT.

The undersigned, a member of the Select Committee on Amendments of the Constitution, cannot concur entirely in the reports of the majority of said committee. The several distinct propositions referred to the consideration of the committee, may be stated as follows:

First. The abolition of the freehold qualification required by the Constitution for electors of the members of the Senate.

Secondly. The election of Justices of the Peace by the people.

Thirdly. The election of Judges by the people and limiting their term of office.

Fourthly. Restricting the Legislature within the limit of one hundred thousand dollars, in any enactment appropriating money, or pledging the faith of the State for the payment of money.

It became necessary for the committee to consider, first, is it expedient to amend the Constitution in all or any of the respects as above proposed; and, in the second place, if amendments were to be made, should they be effected by legislative enactment, or by a limited convention, or should we call an unlimited convention?

It will be at once perceived, that these several distinct changes of our organic law, proposed to be effected in several distinct modes, necessarily gave rise to a variety of opinions in the committee, and the undersigned proposes, in order that misapprehension may not arise, and that it may be understood wherein he differs from the majority, concisely to submit his views upon this subject.

He concurs with the majority report in so far as it proposes to abolish the freehold qualification for electors of members of the Senate, and in recommending that, at the *present* time, no steps be taken to change the mode of electing Justices of the Peace. He also concurs (and on this subject the committee were unanimous) in asking to be discharged from the further consideration of that resolution, which seeks to fetter the State in her financial operations.

The undersigned does not concur with a majority of the committee, in recommending the rejection of the bill referred to them, which proposes to amend the Constitution, by submitting the election of the Judges to the people, and limiting their official tenure to a term of years. He most respectfully submits that this is a reform loudly called for by the progress of democratic principles. It is true, that in the infancy of our institutions, when our fundamental laws were established, many of our wisest statesmen distrusted the political saga-

city of the people. This distrust, wherever it has existed in the republic, has gradually diminished, and given place to a firm confidence in an educated and enlightened public opinion. The ballot-box, that compact depository of the public will, has gained upon the estimation of the world, and in this country, is paramount to all other modes of selecting those who exercise authority over us. The undersigned is aware that this reform has been considered by many patriotic citizens to be a dangerous experiment, tending to destroy that proudest monument of Anglo-Saxon wisdom—the independence of the Judiciary. If such a result is to be feared, the reform should not be attempted. But the change proposed, is no longer an experiment. It has been adopted in several of our sister States, and none of the evils prophesied have come to pass; but, on the other hand, the reform has equaled, if not exceeded, the expectation of its friends.

The question which gave the committee the least difficulty, concerned the mode in which constitutional reforms should, at the present time, be effected. The undersigned believes that those who favor the call of a convention, are influenced by motives which lay outside the questions referred to the consideration of the committee. As upon this part of the subject, the undersigned concurs in opinion with the majority, it is unnecessary he should state his views at large. He would only remark, that the call of an unlimited Convention, (and the power of the Legislature to impose a limit is doubted), during the present state of sectional controversy and excitement, would impair, if not wholly destroy the compromises of the Constitution, divide still more widely apart the different sections of the State, open the discussion of subjects dangerous to the peace of the republic, and destroy that harmony without which no State progress can be made. Furthermore, it is evident, that if a constitutional majority desire to reform our organic law, in any particular, this object can be attained, almost as speedily and certainly more economically, under the provisions of the amended Constitution, article IV, section II, which provides for amendments by legislative enactment.

Therefore, to carry out the views herein set forth, the undersigned, in addition to the suffrage reform proposed by the majority of the committee, recommends the passage of the bill now upon your table, which provides for the election of the Judges by the people, and limits their office to a term of years.

Respectfully submitted.

GEO. S. STEVENSON.

[HOUSE DOC. 59.]

RESOLUTIONS,

DECLARING

INALIENABLE RIGHTS OF FREEMEN,

A VIOLATION OF WHICH

TENDS TO DESPOTISM.

RALEIGH :

Thos. J. Lemay, Printer to the State.

1850.

Dec. 10, 1850.

[Introduced by Mr. FLEMMING. Read first time and passed, and, on Mr. Walton's motion, ordered to lie on the table and be printed.]

RESOLUTIONS

Declaring certain unalienable rights of freemen, a violation of which tends to despotism.

"Equality of rights is nature's plan,

"And to follow nature the march of man."

Whereas we, the Representatives of the people of North Carolina, in General Assembly convened, recognize and fully appreciate the necessity which drove our revolutionary fathers to resist the unjust, unequal and oppressive colonial system under which they suffered from exactions that were unjust, impositions that were oppressive, and laws that were tyrannical in their operation and calculated to degrade and enslave the subjects upon whom they operated: that we fully endorse their action, although it led to revolution in opposing laws passed by a Parliament in which they were neither heard nor represented, and controlled by a power foreign to their interest and inimical to their prosperity: Therefore,

Be it resolved, That a frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

II. Resolved, That all political power is vested in and derived from the people only.

III. Resolved, That we recognize in all American citizens certain inalienable rights, among which are life, liberty, and the pursuit of happiness, and that no man or set of men are entitled to peculiar or exclusive privileges.

IV. Resolved, That it is only when placed upon terms of equality with his fellow, that man begins to feel that he is free. It is then that the soul of independence is enkindled at the intellectual pile, and the heart inflamed with conscious greatness, that *man*, by contemplating the immortality of his Creator, spurns the tyrant's *rod*, and casts the fetters that would enslave him at the feet of his oppressor.

V. Resolved, That under a government like ours, all white men are, and of right ought to be free, equal and independent; and that all measures contravening this principle are both unwise and impolitic in this enlightened age.

VI. Resolved, That a majority of the free white people of this State ought to have the sole and exclusive right to regulate and control their internal government and domestic policy.

VII. *Resolved*, That whereas the freemen of this State
 2 are all equally bound to bear *arms*, in *her common de-*
 3 *fence*, that they should also be equally invested with pow-
 4 er to provide means to sustain said *arms* when necessa-
 5 rily employed in such defence.

VIII. *Resolved*, That all systems of government or
 2 laws, in which the public voice is not fairly reflected, and
 3 by which a minority controls the rights or wields the
 4 destiny of the whole, savours of aristocracy and tends to
 5 despotism, and is alike contrary to the spirit of our insti-
 6 tutions and the genius of our people.

IX. *Resolved*, as the result of the foregoing political
 2 *axioms*, That every free white man in North Carolina is
 3 equally entitled to be heard and represented in said State;
 4 and that we as the representatives of such freemen, will
 5 use all constitutional, lawful and honorable means to pro-
 6 duce so desirable a result.

[SENATE Doc. 60.]

A B I L L

CONCERNING

FREE NEGROES

IN

NORTH CAROLINA.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. WASHINGTON. Passed first
reading, ordered to be printed.]

A BILL

More effectually to prevent migration of free negroes or mulattoes into the State by land or by sea—to regulate their conduct while in the State as seamen, servants or passengers—to fix the residence of them in the State and to provide against their becoming parish charges.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That, any free negro or mulatto now a resident of this State, who may voluntarily go beyond the limits thereof, either in or out of the service of another, and shall voluntarily remain for the space of five days out of the State, shall from thenceforward be deemed, taken and held to reside out of the limits of the same; and if such free negro or mulatto shall again return into the State and remain therein for the space of five days, he or she shall be deemed to have migrated into the State and be subject to be proceeded against, prosecuted and punished, in the same manner as is now provided for in the case of free negroes or mulattoes migrating into the State.

II. *Be it farther enacted,* That, free negroes or mulattoes coming into this State on board of vessels, either as crew, servants or passengers, shall not be allowed to land at any place whatsoever, unless compelled to do so to avoid the dangers of the sea or other imminent peril, without permission, if such landing be at a town, of the chief magistrate of said town, in writing, specifying the length of time and the cause of such permission, and the place where he is allowed to go; and if elsewhere than at a town, without written permission from some Justice of the Peace of the county in which such landing shall take place, specifying in like manner, the length of time and cause of such permission, and place where he is to go; and if any free negro or mulatto coming into this State, on board of a vessel, as aforesaid, shall presume to land without such excuse, or, shall land with such excuse, and shall remain after the peril is over; or shall land without permission as aforesaid; or, if after having

19 obtained such permission, he shall be found on shore af-
 20 ter the expiration of the time allowed by the license, or at
 21 other places than such as are therein allowed him to be
 22 at, he or she shall be liable to be arrested by any Sheriff,
 23 constable, patrol or town watchman and carried before
 24 the Chief Magistrate of the town, if the arrest be within
 25 a mile thereof, or before some Justice of the Peace, if the
 26 arrest be not within such distance of a town; and the said
 27 Chief Magistrate or Justice of the Peace, as the case may
 28 be, shall examine into the case, and, if upon investiga-
 29 tion, it shall appear that the said free negro or mulatto
 30 hath come ashore without a written permission, or suffi-
 31 cient cause, or in any manner violated this act, he shall
 32 be recognised with good and sufficient security for his
 33 appearance at the next County or Superior Court, that
 34 may have cognizance of the offence—and for want of
 35 such security, such free negro or mulatto shall be com-
 36 mitted till the time of departure of the said vessel, when
 37 the said Chief Magistrate or Justice may discharge the
 38 said free negro or mulatto on his personal recognizance
 39 to answer for his said offence: *Provided however*, That
 40 such free negro or mulatto seamen shall not be deemed
 41 to have landed within the meaning of this act, while ac-
 42 tually engaged at the wharf or other landing place in un-
 43 lading or lading the vessel to which they belong.

III. *Be it further enacted*, That the offence of land-
 2 ing, or remaining ashore by any free negro or mulatto
 3 contrary to the provisions of this act, shall subject the
 4 offender to indictment in the County or Superior Court,
 5 and on conviction, he or she shall be fined, imprisoned
 6 or whipped at the discretion of the Court. And in all in-
 7 dictments under this act, it shall be sufficient to aver in
 8 the same, the unlawful landing or the unlawful remain-
 9 ing on shore, without setting forth and negating there-
 10 in any matter excusing the offence; but the same if re-
 11 lied on shall be alleged and shewn forth in the defence
 12 alone.

IV. The provisions of this act shall not apply to any
 2 free negro or mulatto who may land to avoid imminent
 3 peril, provided such free person shall leave the State as
 4 soon as it may be practicable to return home. But if he
 5 or she shall fail so to depart the State within five days after
 6 an opportunity to return shall occur, such free person
 7 shall be deemed to have migrated into the State, and
 8 shall be punished as such.

V. All free negroes now legally settled in any county
 2 of the State, who would be entitled, if paupers, to sup-

3 port from the county in which they are so settled, shall
4 be deemed and taken to be inhabitants of such county.

VI. And whereas, many of the free negroes and mu-
2 lattoes of the State have no fixed homes and pursue no
3 regular industry or calling; but roam about contracting
4 idle and dissipated habits, and so either become parish
5 charges, or have but a precarious means of subsistence,
6 and by such migratory habits acquire, often unknown to
7 the wardens of the poor, a settlement to which they ought
8 not to be entitled: for remedy whereof, *be it enacted*, That
9 no free negro or mulatto, being an inhabitant of any coun-
10 ty in the State, shall remove into any other county, and
11 abide there for a longer space of time than twenty days,
12 during the period of one year, unless he or she shall exe-
13 cute to some warden of the poor, of the last mentioned
14 county, a bond with two good sureties, payable to the
15 State, in the sum of five hundred dollars, conditioned for
16 indemnifying the parish against himself and his family,
17 then or afterwards to be had, and also for his or her and
18 their good behaviour, which bond shall be returned to the
19 County Court, and if accepted by them, shall be filed
20 away to be sued on if need be: and the free negro or
21 mulatto so executing the bond, may, after its acceptance
22 and not until then, become an inhabitant of the said
23 county, and thenceforward shall cease to be an inhabi-
24 tant of any other county.

VII. Any free negro or mulatto, who may remove
2 himself or family from the county of his residence con-
3 trary to the true intent and meaning of the two preceding
4 sections of this act, shall be subject to indictment in the
5 County or Superior Court of the county into which such
6 removal may be made—and on conviction shall be fined
7 or whipped and shall be adjudged to be removed with
8 his or her family into the county of his or her residence
9 at his own expense and at such time as the Court may
10 direct.

VIII. No Clerk shall hereafter issue and deliver to any
2 free negro or mulatto any certificate of his or her being
3 a freeman or freewoman, unless it shall be first certified
4 to the Clerk by a Justice of the Peace and two respect-
5 able freeholders of the county that they believe that the
6 applicant is about to remove away from the State, and is
7 on the eve of his or her departure, and any free negro or
8 mulatto who shall not depart the State within twenty
9 days after obtaining such certificate, shall be prosecuted
10 and punished as if he had migrated into this State.

IX. It shall be the duty of all wardens of the poor to

2 warn all free negroes or mulattoes who may violate this
 3 act in their districts respectively to remove forthwith—
 4 and if they shall refuse, then to report to the county so-
 5 licitor their names—and this act shall be given in charge
 6 to the Grand Jury of the County and Superior Court,
 7 whose duty it shall be to present all offences in violation
 8 of the same.

[HOUSE Doc. No. 61.]

Nov. 30, 1850.

[Introduced by Mr. ERWIN. Read first time and passed, and, on motion of Mr. Erwin, referred to the Committee on the Judiciary.

Dec. 13.

Read second time, and, on motion of Mr. Erwin, ordered to be printed and laid on the table.

A B I L L

Requiring the prosecutor to pay the costs in certain cases, and giving a discretionary power to Grand Juries, in certain cases.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That in all indictments of assault and battery and affrays, unless upon the presentment of a Grand Jury, it shall be the duty of the Solicitors to mark upon the bill of indictment the name of the real prosecutor, who shall be taxed with the costs of the trial upon the acquittal of the defendant or defendants.

Section 2nd. *Be it further enacted,* That the Grand Ju-

2 ry of the several Courts of this State shall be given in
 3 charge the discretionary power of presenting the offences
 4 of assault and battery and affrays.

Section 3d. *Be it further enacted*, That this act shall
 2 take effect from and after its ratification.

[HOUSE Doc. 61.]

REPORT

OF THE

COMMITTEE ON THE JUDICIARY

ON THE BILL GIVING THE

ELECTION OF CLERKS & MASTERS IN EQUITY

TO

THE PEOPLE.

RALEIGH:

T. J. Lemay, Printer to the State.

1850.

38

House of Commons, November 28

Bill introduced by Mr. DBARE.

Read 1st time and passed, and on motion of Mr. DRAKE, referred to Committee on the Judiciary.

House of Commons, December 15.

Read 2nd time and on Mr. EATON'S motion laid on the table and ordered to be printed, together with the report of Committee.

REPORT.

The Committee on the Judiciary to whom was referred the Bill entitled "A Bill giving the election of Clerks and Masters in Equity to the people," have had the same under consideration, and report said Bill to the House and recommend its rejection. The said Bill, with the exception of the first and fifth sections thereof is almost a copy from the first, second and third sections of the act of 1832, Rev. Statutes, Chap. 19, which provide for an election of Clerks of the County and Superior Courts by the qualified voters of the House of Commons. The Bill now under consideration repeals so much of the first section of the 20th chap. Rev. Statutes as relates to the appointment of Clerks and Masters in Equity and requires that an election shall be held in the several counties in this State on the 1st Thursday in August, 1851, and every four years thereafter for Clerks and Masters in Equity by the qualified voters for the House of Commons. It further provides that the persons elected shall hold their offices for four years from the time of their qualification.

The existing law authorizes the Judges of the Courts of Equity to appoint the Clerks and Masters and directs that when so appointed they shall hold their offices for four years. Appointments have been made in the several counties in this State agreeably to the provisions of the Statute now in force, bonds have been given with approved security, and the oaths of office duly taken, and the incumbents have a right to remain in office for four years from the time of their qualification, unless they have forfeited their offices by misconduct, or by a failure to renew their bonds according to law. Inasmuch as the Bill under consideration attempts to remove the incumbents from office before the end of the term for which they were appointed without any abuse or default on their part and without their consent, it is, in the opinion of your Committee, unconstitutional. The Bill, so far as Clerks

and Masters in office now are concerned, is in conflict with the 12th sec. of the Bill of Rights, which is in the following words, viz: "That no freeman ought to be taken, imprisoned, or disseized of his freehold, liberties, or privileges, or outlawed, or exiled, or in any manner destroyed, or deprived of his life, liberty or property, but by the law of the land," and it has been held by the Supreme Court, that an Act which deprives one person of a right and vests it in another, is not a law of the land, within the meaning of the Bill of Rights. The Bill is also in conflict with the 4th sec. of the Bill of Rights, which declares "that the Legislative, Executive, and Supreme Judicial powers of government, ought to be forever separate and distinct from each other." The present incumbents cannot be deprived of their offices, before the expiration of their respective terms of office, unless they have forfeited or shall hereafter forfeit them by a failure to renew their bonds or to discharge their duties according to law. Whether there has been such a forfeiture or not, is a matter for the Courts to decide, and not the Legislature. These views are fully sustained by the Supreme Court in the case of *Hoke vs. Henderson*, Dev. Reports, 4th vol. page 1, and the case of *Taylor vs. Stanly* Dev. Reports, 4th vol. page 31. The following is the substance of the decision in the case first above mentioned, as condensed by the reporter, viz: "The Act of Assembly of 1832, respecting the election of Clerks of Courts, is unconstitutional and void, so far as its provisions have the effect of removing Clerks then in office, before their regular terms had expired."—Your Committee had supposed that the learned and able opinion of Chief Justice Ruffin, in the case of *Hoke vs. Henderson*, already referred to, had placed this question forever at rest in North Carolina, the said opinion being concurred in at the time, by the whole Court, and sustained by subsequent decisions. The most important parts of the Bill under consideration, are almost a literal copy from the Act of 1832, concerning the Clerks of the County and Superior Courts, and as that Act was declared by the Supreme Court to be unconstitutional, so far as it affected the persons then in office, there can be no doubt, but that the Bill now under consideration, would be held by that tribunal to be equally unconstitutional. Independently of these insuperable objections, your Committee are of the opinion, that there is no necessity for additional Legislation upon the subject. The Clerks and Masters in Equity, have been, very generally, diligent, upright and faithful, in the discharge of their official

duties, and there is no existing grievance to require a change of the law as to the mode of appointment. For these reasons, they recommend a rejection of the Bill which has been referred to them.

A BILL

Giving the election of Clerks and Masters in Equity to the people.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That so much of the first section of the twentieth chapter of the Revised Statutes as relates to the appointment of Clerks and Masters in Equity, be, and the same is hereby repealed.

II. *And be it further enacted,* That at the time of the election of Members of Congress from this State, in the year one thousand, eight hundred and fifty one, and at the same time, every four years thereafter, a poll shall be opened for the election of a Clerk and Master in Equity, by the same persons and in the same manner, and under the same rules, regulations and restrictions, as polls are opened and held for Clerks of the County and Superior Courts; and in case of failure of persons or either of them appointed to hold said elections, it shall be competent for a Justice of the Peace and two free holders to supply such vacancy.

III. *And be it further enacted,* That all persons qualified to vote for Members of the House of Commons in the General Assembly of this State, shall be entitled to vote for a Clerk and Master in Equity in their respective counties.

IV. *And be it further enacted,* That the Sheriffs or other persons qualified to hold said elections, shall at the court house or other place of returning and comparing the polls, declare the person having the highest number of votes duly elected Clerk and Master in Equity, who shall continue in office for the term of four years next after their qualification and in the event of two or more persons having an equal and the highest number of votes, then and in that case the Court of Pleas and Quarter Sessions, a majority of the acting Justices being present, shall proceed to make the election as prescribed for the election of Clerks of the County and Superior Courts

13 under like circumstances : and said Court in manner a-
 14 foresaid shall be a competent tribunal to decide all con-
 15 tested elections under this act.

V. *And be it further enacted*, That this act be in
 2 force from and after its ratification.

REPORT

THE COMMITTEE ON THE JUDICIARY

BILL TO PROVIDE FOR THE PAY OF WITNESSES

CERTAIN CLASSES

The Committee on the Judiciary to whom was referred the Bill to compensate witnesses for attending before committees, &c., have had the same under consideration, and in-
 struct me to report the same back to the Senate and recom-
 mend that the same be amended by striking out all after the
 enacting clause and insert the accompanying Bill marked A,
 and recommend its passage when so amended.

Respectfully submitted,

K. W. WOODFIN,

Chairman

[SENATE Doc. 63.]

REPORT

OF

THE COMMITTEE ON THE JUDICIARY

ON THE

BILL TO PROVIDE FOR THE PAY OF WITNESSES

IN

CERTAIN CASES.

The Committee on the Judiciary to whom was referred the Bill to compensate witnesses for attending before commissioners, &c., have had the same under consideration, and instruct me to report the same back to the Senate and recommend that the same be amended by striking out all after the enacting clause and insert the accompanying Bill marked A, and recommend its passage when so amended.

Respectfully submitted,

N. W. WOODFIN,

Chairman.

In Senate, Dec. 4, 1850.

Introduced by Mr. BARRINGER.

Passed 1st reading and referred to Committee on Judiciary.

A BILL

To provide for the pay of Witnesses in certain cases.

1. *Be it enacted by the General Assembly of the State*
2 *of North Carolina, and it is hereby enacted by the au-*
3 *thority of the same,* That all persons summoned as Wit-
4 nesses before any Clerk, Clerk and Master in Equity,
5 Referee, Arbitrator or other Commissioner, in pursuance
6 of an order made in any suit in the Courts of this State,
7 shall be entitled to receive the same pay as is allowed to
8 other witnesses, to be taxed as the other costs in such
9 suit. And any person so summoned and failing to at-
10 tend and give evidence before such Clerk, Clerk and
11 Master in Equity, Referee, Arbitrator or Commissioner,
12 shall be liable to the same penalties as other witnesses
13 are now subjected to; and the record of such failure, prop-
14 erly signed and returned into the Court in which any
15 such suit may be pending, shall be sufficient evidence, on
16 which to issue a *scire facias* against such defaulting wit-
17 ness.

In Senate, Dec. 11, 1850.

[Passed 1st reading and ordered to be printed.]

A BILL

To facilitate the taking of testimony before Referees, Arbitrators or other Commissioners.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter when an order of reference or an order to take testimony, shall be made in any suit pending in either of the Courts of this State, it shall be lawful for either the Clerk of the Court, in which such order may be made, or the persons to whom the same may be directed, to issue subpoenas or other legal process to compel the attendance of witnesses; and any Referee, Arbitrator or Commissioner, to whom any such order may issue, shall have full power and authority to administer oaths, and to record the default of witnesses, in like manner, as is now allowed by law in the several Courts of this State.

II. *Be it further enacted,* That whenever the default of any witness may be recorded as prescribed in the above section, the same shall be certified in writing to the Court in which the suit may be pending, and shall be deemed a sufficient record, on which to ground a *scire facias* against such defaulting witness, at the instance of the party injured thereby.

III. *Be it further enacted,* That all persons summoned as witnesses before any Clerk, Clerk and Master in Equity, Referee, Arbitrator or other Commissioner, as herein provided, shall be entitled to receive the same pay, as is now allowed to other witnesses, their attendance to be proved before the person or persons taking their testimony, and taxed as the other costs in such suit.

House of Commons, Dec. 11, 1856.

Introduced by Mr. FLEMMING.

Read 1st time and passed, and on motion of Mr. HAYES, referred to the Committee on Cherokee Bonds and ordered to be printed.

A BILL

To amend an Act passed at the Session of 1848 and 1849, constructing a Turnpike Road from Salisbury to the Georgia Line in Cherokee County.

WHEREAS by nature the Western portion of North Carolina are subject to many inconveniences, in consequence of the unfavorable condition of the Highways; and whereas, further, we believe the Western Turnpike, as at present located, agreeable to the reputed *For Chase*, will neither obviate these difficulties, nor yet be a good investment to the State, and farther, believing that said fund may be invested to the mutual advantage of both public and individuals, and at the same time become one of the best investments of State stock: Therefore,

I *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful, and is hereby declared to be the duty of the Internal Improvement Board, to divide the Cherokee Bonds, or the proceeds arising from the same, together with the amounts hereafter to be received from lands yet unsold, amongst the several counties in the seventh Judicial Circuit, agreeable to their white population, as ascertained from the present census, upon the following terms, viz :

II. *Be it further enacted,* That any county wishing to enjoy the benefits of the first section of this Act, shall raise by subscription, for which books shall be opened, under the direction of five Commissioners, appointed by the County Courts thereof, an amount, equal to the allotment of such county in the distribution of said fund, which amount, with the State subscription of a like amount, shall be invested in such works of Internal Improvement, be it Turnpike, Plank Road or Rail Road, as a majority of said stockholders may determine.

III. *Be it further enacted,* That the Stockholders thus

2 subscribing, together with the State Director, shall con-
 3 stitute and be styled an Internal Improvement Company
 4 of the county thus constituting and appointing them; and
 5 by such name, sue and be sued, plead and be impleaded,
 6 in any Courts of Record in this State, and shall exercise
 7 and enjoy all other rights and privileges necessary to
 8 carry into effect the objects of this act.

IV. *Be it further enacted*, That whenever it shall be
 2 made appear to the Internal Improvement Board, that
 3 any of the aforesaid counties shall have formed such In-
 4 ternal Improvement Company, and procured an amount
 5 of subscription equal to the amount that will fall to
 6 such county, under the above distribution, which amount
 7 shall be well secured, it shall then be the duty of the
 8 Board of Internal Improvement to subscribe the amount
 9 allowed such county, which, with the private subscription,
 10 shall constitute the capital of said Company.

V. *Be it further enacted*, That upon the completion of
 2 any road or roads, under the operations of this act of
 3 incorporation, the Internal Improvement Company, thus
 4 organized, shall establish such rate of tolls as they may
 5 deem expedient, not exceeding the rates now by law
 6 established upon the Buncombe Turnpike, one half of
 7 said tolls, after necessary expense and repairs, to be
 8 paid over to the Board of Internal Improvement for the
 9 State, and the other half to be divided amongst the sever-
 10 al Stockholders, in proportion to their stock.

VI. *Be it further enacted*, That the powers, privileges
 2 and authorities hereby conferred, shall extend to the ma-
 3 king of highways for the transportation of persons and
 4 property, and for no other purpose.

VII. *Be it further enacted*, That any county not com-
 2 plying with the provisions of this act, shall not be enti-
 3 tled to any of the proceeds arising from the Cherokee
 4 Bends.

VIII. *Be it further enacted*, That all Laws and claus-
 2 es of Laws, coming within the meaning and purview of
 3 this act, be, and the same are hereby repealed.

A B I L L

TO PREVENT

FISHING WITH SEINES,

AT CERTAIN TIMES,

IN RIVERS EMPTYING INTO

ALBEMARLE SOUND.

[———]

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

House of Commons, Dec. 17, 1850.

Introduced by Mr. THOS. WILSON.

Read 1st time and passed, and on motion of Mr. CHERRY, ordered to be printed and referred to Committee on Propositions and Grievances.

A BILL

To prevent, during a part of each week, the fishing with seines near the mouths of the Rivers emptying into Albemarle Sound, and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall not be lawful for any person or persons to lay out his or their seine or seines, or suffer them to remain out, within one mile of the mouth of any River emptying into the Albemarle Sound, either inside of said River or in the Sound opposite the mouth of said River, during the time comprehended between sunset on Saturday evening and 12 o'clock Sunday night; and if any person or persons shall so lay out his or their seines, or suffer the same to remain out, within one mile of the mouth of any river emptying into the Albemarle Sound, within or during the time before described, and contrary to the meaning and intent of this act, every such person or persons shall forfeit and pay, for each and every such offence, so unlawfully committed, the sum of *three hundred dollars*, to be recovered in any Court having jurisdiction in the county, in which the offence may be committed, and applied one-third to the informer, and the remaining two-thirds to be paid over to the chairman and Board of superintendents of Common Schools in and for said county, to be used and accounted for as other school moneys: *Provided*, that the provisions of this section shall not extend to the owner of any seine laid out before sunset, who may be using proper exertions "to land" the same as soon as possible thereafter.

II. *Be it further enacted,* That it shall not be lawful for any person or persons to lay out his or their seine or seines in such a manner as to sweep over and beyond two-thirds of the channel of any river emptying into the Albemarle Sound; and if any person or persons shall so lay out his or their seine or seines contrary to the meaning and intent of this act, every such person or persons shall forfeit and pay for each and every such offence, so

9 unlawfully committed, the sum of *two hundred dollars*,
 10 to be recovered in any Court having jurisdiction in the
 11 county, in which the offence may be committed, and ap-
 12 plied one-third to the informer, and the remaining two-
 13 thirds to the chairman and Board of superintendents of
 14 Common Schools in and for said county, to be used and
 15 accounted for as other school moneys.

III. *Be it further enacted*, That this act shall not be
 2 construed in any way to alter or affect the full operation
 3 of the Laws heretofore passed to establish lay-days in
 4 certain rivers emptying into the Albemarle Sound.

IV. *Be it further enacted*, That this act shall be in
 2 force from and after its ratification.

[SENATE DOC. 68.]

A B I L L

TO

R E - C H A R T E R

THE

MERCHANTS' BANK OF NEWBERN.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. WASHINGTON. Passed first reading, and referred to committee on corporations, and ordered to be printed.]

A BILL

To re-charter the Merchants' Bank of New Bern.

WHEREAS, by the provisions of an act, passed in the 2 year of our Lord one thousand eight hundred and thirty 3 four, entitled "an act to establish the Merchants' Bank of 4 the town of New Bern," the subscribers to the stock of 5 said Bank were incorporated under the name and style 6 of the "president and directors of the Merchants' Bank 7 of New Bern," and the existence of said corporation limited to the first day of January, in the year of our Lord 8 one thousand eight hundred and fifty five: AND WHERE- 9 AS, it is expedient now to continue the corporate privileges 10 of the said bank for a further term:

I. *Be it therefore enacted by the General Assembly of the* 2 *State of North Carolina, and it is hereby enacted by the* 3 *authority of the same,* That the stockholders in the said 4 bank, their successors and assigns, shall be and continue 5 a body corporate, in law and in fact, under the name and 6 style of "the president and directors of the Merchants' 7 Bank of New Bern," until the first day of January, one 8 thousand eight hundred and eighty, with a capital stock 9 not exceeding three hundred thousand dollars, in shares 10 of one hundred dollars each, and by the name and style 11 aforesaid, they shall be, and are hereby made able and 12 capable, in law, to have, purchase, receive, possess, enjoy 13 and retain, to themselves and successors, lands, tenements, 14 rents, hereditaments, goods, chattles, and effects; and the 15 same to grant, demise, alien or dispose of; to sue and be 16 sued, implead and be impleaded, answer and be answered, 17 defend and be defended, in courts of record, or any

18 other place whatsoever; and also to make, have and use a
 19 common seal, and the same to break, alter or renew at
 20 their pleasure; and also to ordain, establish and put in
 21 execution, such by-laws, ordinances, and regulations, as
 22 shall seem necessary and convenient for the government
 23 of said corporation, (for the making whereof general
 24 meetings of the stockholders may be called in the man-
 25 ner hereinafter specified,) and generally to do and exe-
 26 cute all acts, matters and things which a body politic
 27 in law may or can lawfully do or execute, subject to the
 28 rules, regulations, and restrictions hereinafter provided and
 29 declared.

II. *Be it further enacted*, That annual general meet-
 2 ings of the stockholders shall be held in the town of New
 3 Bern, as heretofore, on the first Monday in December, in
 4 each and every year, (or at any time thereafter,) for the
 5 purpose of electing directors, enquiring into the affairs of
 6 the institution, and making such regulations as may be
 7 deemed fit and necessary; and the said directors shall con-
 8 tinue in office until the first Monday of December next
 9 ensuing their appointment, or until their successors shall
 10 be elected.

III. *And be it further enacted*, That the following
 2 rules, restrictions and provisions shall form and be the
 3 fundamental articles of the constitution of said corpora-
 4 tion: A meeting of the stockholders cannot be held, un-
 5 less those who have a majority of the whole number of
 6 votes be present, and every act shall require the sanction
 7 of a majority of the votes which may be present. Every
 8 stockholder holding one share and not more than two,
 9 shall be entitled to one vote; for every two shares above
 10 two and not exceeding ten, one vote; for every three
 11 shares above ten and not exceeding one hundred, one
 12 vote; for every four shares above one hundred, one vote.
 13 No share or shares shall confer a right of voting which
 14 shall not have been holden three calendar months previ-
 15 ous to the day of voting. Stockholders may vote at gen-

16 eral meetings and elections, by proxy, (the proxy himself
17 being a stockholder.) None but a stockholder, who is a
18 citizen of the State, shall be eligible as a director; and
19 the directors, when appointed, shall choose one of their
20 number (which shall always be nine) to be president of
21 said bank; and they shall manage the institution as shall
22 seem best to them, unless otherwise directed by the stock-
23 holders; but no compensation shall be granted to the presi-
24 dent or directors, except at the pleasure of the stockhold-
25 ers. Not less than five directors shall constitute a board
26 for the transaction of business, of whom the president
27 shall always be one, except in case of sickness or absence,
28 when he may, by writing, nominate any other director to
29 supply his place. A number of stockholders, not less
30 than ten, who together shall be the owners of one hun-
31 dred shares or upwards, shall have power at any time to
32 call a general meeting of the stockholders, for purposes
33 relative to the institution, giving at least twenty days
34 notice in a public gazettee, and specifying the object or
35 objects of such meeting. The directors shall annually
36 elect a cashier and such other officers as may be neces-
37 sary to perform the business of the bank. These officers
38 shall be required to give bonds, with two or more sureties,
39 in sums not less than ten thousand dollars, with a con-
40 dition for good behaviour and faithful discharge of duty.
41 The cashier shall keep a book to contain the proceedings
42 of the board of directors, the names of those present, the
43 date of each meeting, and shall record the yeas and nays
44 on any question when asked for by a director. This
45 book shall be evidence in Courts of Justice against said
46 bank; and on entering upon the discharge of his duties, the
47 cashier shall take the following oath or affirmation before
48 some justice of the peace, by whom it shall be deposited
49 in the office of the clerk of the County Court for Craven
50 county, viz. "I, A. B., do solemnly swear (or affirm as the
51 case may be,) to keep a just and true record, without alter-
52 ation or erasure, of the transactions of the board of di-

53 rectors of the Merchants' Bank of New Bern, in a book
 54 to be kept by me for that purpose." In all cases, in addi-
 55 tion to the usual personal security, the stock of directors
 56 shall be considered as a pledge for the repayment of the
 57 money which they may borrow, whether as principal or
 58 surety. The said corporation shall purchase and hold
 59 only such lands, tenements, rents and hereditaments, as
 60 shall be requisite for the convenient transaction of its
 61 business, or such as shall have been mortgaged, *lona*
 62 *fide*, to it by way of security, or conveyed to it in satis-
 63 faction of debts previously contracted in the course of its
 64 dealings, or purchased at sales upon judgments which
 65 shall have been obtained for such debts. The said cor-
 66 poration shall neither directly nor indirectly trade in any
 67 thing except bills of exchange, bonds and promissory
 68 notes, expressing on the face of them to be negotiable and
 69 payable at said bank, gold and silver bullion, in the sale
 70 of goods truly pledged for money lent and not redeemed
 71 in time, or the sale of goods which shall be the produce
 72 of its lands, in mint certificates, in the public debts of the
 73 United States and of the several States (including North
 74 Carolina) whether such debts be now in existence or be
 75 hereafter created. The said corporation shall not take
 76 more than at the rate of six per centum per annum for
 77 or upon its loans and discounts, which interest may be
 78 taken in advance at the time of the discount. The total
 79 amount of the debts which the said corporation shall at
 80 any time owe, shall not exceed twice the amount of the
 81 stock actually paid in, over and above the sum then de-
 82 posited in the bank for safe keeping. If this or any oth-
 83 er provision herein contained be violated, the director
 84 knowingly and wittingly assenting to such violation, sha'l
 85 be deemed guilty of a misdemeanor, and, upon conviction
 86 in the Superior Court, shall be fined or imprisoned or
 87 both, at the discretion of the Court. If a vacancy in the
 88 directory shall occur by death, resignation, or otherwise,
 89 the remaining directors shall fill such vacancy until the

90 succeeding meeting of the stockholders. The stock of
 91 said corporation shall be assignable and transferable, ac-
 92 cording to the rules which shall be instituted in that be-
 93 half by the laws and ordinances of the same. The offi-
 94 cer at the head of the treasury department of the State
 95 shall be furnished once in six months with a statement
 96 of the amount of the capital stock of said corporation and
 97 of the debts due to the same; of the moneys deposited
 98 therein; of the notes in circulation; and of the cash in
 99 hand; and shall have a right to inspect such general ac-
 100 counts in the books of the bank as shall relate to the
 101 said statement, provided this shall not be construed into
 102 a right of inspecting the accounts of any private indi-
 103 vidual with the bank, except of the directors. The bills
 104 obligatory and of credit, under the seal of the said cor-
 105 poration, which shall be made to any person or persons,
 106 shall be assignable by endorsement thereon, under the
 107 hand or hands of such person or persons, or of his, her
 108 or their assignee or assignees, and so as absolutely to
 109 transfer and vest the property therein, in each and every
 110 assignee or assignees successively, and so as to enable
 111 such assignee or assignees to bring and maintain an ac-
 112 tion thereupon, in his, her or their own name or names.
 113 And bills or notes which may be issued by order of the
 114 said corporation, signed by the President and counter-
 115 signed by the Cashier, promising the payment of money
 116 to any person or persons, his her or their order, or to
 117 bearer, though not under the seal of said corporation, shall
 118 be binding and obligatory on the same, in the like man-
 119 ner, and with the like force and effect, as upon any pri-
 120 vate person or persons, that is to say: those which shall
 121 be payable to any person or persons, his, her or their or-
 122 der, shall be assignable, by endorsement, in like manner
 123 and with like effect as foreign bills of exchange now
 124 are, and those which are payable to bearer, shall be ne-
 125 gotiable and assignable by delivery only.

IV. *Be it further enacted,* That no note shall be issued

2 by said bank under the denomination of — — — dollars;
 3 and if any person or persons holding any note or notes
 4 of said bank, shall present the same for payment and the
 5 payment shall be refused, the said note or notes shall
 6 draw interest at the rate of twelve per centum per an-
 7 num, from the time of said demand, and the said bank
 8 shall pay the same, any law to the contrary notwithstand-
 9 ing; and the holder of the notes of said bank, if they are
 10 not paid on demand, and the bank be unable to pay the
 11 same, may bring an action of assumpsit against one or
 12 all the directors and recover the amount, provided said
 13 director or directors shall have at any time consented to
 14 issue more than twice the sum of the capital stock paid
 15 in. And in case of insolvency or ultimate inability of
 16 the corporation to pay, the individual stockholders shall
 17 be liable to creditors in sums double the amounts of stock
 18 by them respectively held in said corporation.

AND WHEREAS, the capital stock created in the char-
 2 ter of the Merchants' Bank of New Bern, enacted as afore-
 3 said in one thousand eight hundred and thirty four, was
 4 never fully subscribed for and taken, but the books were
 5 closed with a capital of two thousand two hundred and
 6 fifty shares; AND WHEREAS, some doubt is entertained
 7 whether, when once closed, the stockholders possess the
 8 power to re-open the books without an amendment of their
 9 charter:

V. *Be it therefore further enacted,* That the stock-
 2 holders of the bank shall, in their discretion, have power
 3 to re-open said books, at such time and place, and under
 4 the superintendence of such persons, as they may deem
 5 best, and keep the same open until the whole or a part only
 6 of said capital stock now remaining unsubscribed for
 7 shall be taken; and if a part only, then to re-open in their
 8 discretion until the entire stock of three thousand shares
 9 shall be fully taken and subscribed for. And if it shall
 10 happen when the books shall be re-opened as aforesaid,
 11 that a greater number of shares than is necessary to

12 make up the deficiency, viz: seven hundred and fifty, shall
 13 be subscribed by individuals or bodies corporate, it shall
 14 be lawful for the stockholders to reduce such subscriptions
 15 according to a scale by them to be established for that
 16 purpose to the aforesaid number of seven hundred and
 17 fifty: *provided* that no subscription of five shares or un-
 18 der, shall be scaled until all larger subscriptions shall first
 19 be reduced to an equality with them.

VI. *Be it further enacted*, That if a director or any
 2 other officer, agent or servant of said corporation shall
 3 embezzle any of the funds belonging to said bank, with
 4 the intent to defraud said corporation, or any other person
 5 whatsoever, said officer, agent or servant shall be held
 6 and deemed guilty of felony, and upon correction thereof
 7 by due course of law, shall be punished by fine at the dis-
 8 cretion of the Court, and imprisonment not exceeding
 9 five years.

VII. *Be it further enacted*, That if any person shall
 2 falsely make, forge or counterfeit, or cause or procure to be
 3 falsely made, forged or counterfeited, or wittingly aid or
 4 assist in falsely making, forging or counterfeiting, any bill
 5 or note or imitation of a bill or note, or matter purport-
 6 ing to be a bill or note issued by order of the president
 7 and directors of the Merchants' Bank of New Bern, or
 8 any order or check upon said bank or corporation, or the
 9 cashier thereof, or shall falsely alter or cause or procure
 10 to be falsely altered, any bill or note issued by order of
 11 the said corporation, or any order or check on said bank
 12 or any cashier thereof, knowing the same to be falsely
 13 forged or counterfeited, or shall pass, or receive with in-
 14 tent to pass, utter or publish as true any falsely altered
 15 bill or note issued by the order of the said bank, or any
 16 falsely altered order or check on said bank or any cashier
 17 thereof, knowing the same to be falsely altered, with in-
 18 tention to defraud the said corporation or any other body
 19 politic, person or persons, every such person shall be
 20 deemed and adjudged guilty of felony, and being thereof

21 convicted by due course of law, shall be imprisoned not
22 exceeding ten years, and fined not exceeding five thou-
23 sand dollars.

VIII. *Be it further enacted*, That the president or
2 cashier of the said bank shall annually pay into the trea-
3 sury of the State, twenty five cents on each share of the
4 said capital stock which may have been subscribed for
5 and paid, in, and the said bank shall not be liable to any
6 further taxation.

IX. *Be it further enacted*, That the directors of said
2 bank may declare semi-annually dividends of the profits
3 thereof; and if at any time more than the real profits be
4 divided the directors assenting thereto shall be responsible
5 in their private capacities to creditors who have claims
6 against the said institution.

X. *Be it further enacted*, That the president of this
2 bank shall in the first week in December, in each and
3 every year, transmit to the General Assembly a full state-
4 ment of the condition of the bank, exhibiting the amount
5 of capital, notes in circulation, debt due to other banks
6 and what banks, deposits and all other particulars neces-
7 sary to explain the debit side of the account; also the
8 specie on hand, notes of other banks, and what banks, bills
9 of exchange, debt on bonds and notes discounted (speci-
10 fying in one item the amount due from stockholders, and
11 in another the amount due from directors, not however
12 using any person's name in either case) and the amount of
13 real estate.

XI. *Be it further enacted*, That if any president, di-
2 rector, cashier, clerk, or other officer of the aforesaid
3 bank shall knowingly, wittingly and with intent to de-
4 ceive, make or cause to be made, or connive at making any
5 false return, statement or exhibit of the condition of the
6 bank, either to the treasurer of the State, to the Legisla-
7 ture, to the board of directors or to the stockholders, or to
8 any other person or persons that may be authorized by the
9 Legislature or by the stockholders, to receive the same

10 such president, director, cashier, clerk or other officer and
 11 all persons aiding or abetting in such deception or false
 12 return, shall be liable to be indicted as for a misdemeanor,
 13 in the Superior Courts, and upon conviction shall be fined
 14 at the discretion of the Court, and imprisoned not exceed-
 15 ing one year.

XII. *Be it further enacted*, That whenever the Le-
 2 gislature shall be of opinion that the charter of this bank
 3 has been violated, it shall be lawful by joint resolution to
 4 direct the attorney general for the State, to issue a writ of
 5 *scire facias*, returnable before the judges of the Supreme
 6 Court of the State, calling upon said corporation to show
 7 cause why the charter shall not be declared to be forfeit-
 8 ed, subject to the same proceedings as are now prescribed
 9 by law in cases of other corporations.

XIII. *Be it further enacted*, That this act of re-incor-
 2 poration shall take effect and be in force immediately af-
 3 ter the stockholders of said bank in general meeting agree
 4 thereto, and signify their assent to its provisions by writ-
 5 ing duly authenticated and deposited in the office of the
 6 secretary of State; provided the same be done prior to the
 7 first of February, A. D. one thousand eight hundred and
 8 fifty three.

RESOLUTIONS.

NEWBERN Dec. 2, 1850.

At a meeting of the stockholders of the Merchants' Bank of Newbern, the following resolutions were adopted.

Resolved, That the chairman of this meeting communicate to our representatives in the General Assembly, a wish upon the part of the stockholders to have at this session of their honorable body a renewal of the charter of this institution for a term of years not exceeding thirty.

Resolved, That leave be obtained to re-open the books of subscription to the capital stock, if deemed expedient by the stockholders, and increase the amount to the limit prescribed in the charter, viz: three hundred thousand dollars.

M. E. MANLY, *Chairman*.

MOSES W. JARVIS, *Secretary*.

A B I L L

TO INCORPORATE

THE PEIDMONT PLANK ROAD

COMPANY &c.

Dec. 11, 1850.

[Introduced by Mr. WALTON. Read first time and passed, and on motion of Mr. Walton, ordered to be printed, and referred to committee on Cherokee bonds.]

A B I L L

To incorporate the Piedmont Plank Road Company, and to repeal part of an act of the General Assembly, 1848-49, Chap. XC.

1. *Be it enacted by the General Assembly of the State*
2 *of North Carolina, and it is hereby enacted by the au-*
3 *thority of the same, That it shall and may be lawful to*

4 open books in the town of Morganton, under the direc-
 5 tion of R. C. Pearson, J. C. Smyth, Thomas Watson, W.
 6 F. McKisson, C. M. Avery, David Corpening and B. S.
 7 Gaither; and in the town of Marion under the direction
 8 of W. L. Gill, S. J. Neal, Jos. Connelly, A. L. Erwin,
 9 Wm. Murphey, Thos. Greenlee, and William Carson;
 10 and in the towns of Newton, Lincolnton, Charlotte, States-
 11 ville and Salisbury, under the direction of such other
 12 persons, as the commissioners hereinbefore named, to
 13 superintend the receiving of subscriptions in the town of
 14 Morganton, shall direct, for the purpose of receiving sub-
 15 scription to an amount not exceeding one hundred and
 16 forty four thousand dollars, in shares of fifty dollars each,
 17 for the purpose of effecting a communication by means
 18 of a plank road from Davidson's mills, in the county of
 19 McDowell, near the base of the Blue Ridge, to the town
 20 of Salisbury or Charlott, or some intermediate point to be
 21 determined by a majority of the said company after the
 22 same shall have been formed.

II. *Be it further enacted*, That the times and places
 2 for receiving subscriptions shall be advertized in one or
 3 more newspapers, in the towns of Charlotte, Salisbury
 4 and Lincolnton, and the books for receiving the same shall
 5 not be closed in less than thirty days. And the said com-
 6 missioners shall have power to open the books from time
 7 to time, as they may think proper, until the whole num-
 8 ber of shares be subscribed.

III. *Be it further enacted*, That when the sum of
 2 twenty five thousand dollars shall be subscribed for in
 3 manner aforesaid, the subscribers, their executors, admin-
 4 istrators or assigns, shall be, and they are hereby declared
 5 to be incorporated into a company by the name and style
 6 of "The Piedmont Plank Road Company;" and by that
 7 name shall be capable in law of purchasing, holding, sel-
 8 ling, leasing and conveying estates, real and personal and
 9 mixed, so far as shall be necessary for the purposes of
 10 said company; and shall have perpetual succession; and

11 by said corporate name may sue and be sued; and may
 12 have a common seal, which they shall have power to al-
 13 ter and renew at pleasure; and shall have and enjoy, and
 14 may exercise all the powers, rights and privileges which
 15 other corporate bodies may lawfully do for the purposes
 16 mentioned in this act; and may make all such by-laws,
 17 rules and regulations, not inconsistent with the laws of
 18 this State or of the United States, as shall be necessary
 19 for the well ordering and conducting of the affairs of said
 20 company.

IV. *Be it further enacted*, That upon any subscription
 2 of stock as aforesaid, there shall be paid at the time of
 3 subscribing, to the said commissioners or their agents ap-
 4 pointed to receive such subscriptions, the sum of one dol-
 5 lar on every share subscribed; and the residue thereof shall
 6 be paid in such instalments, and at such times as may be
 7 required by the president and directors of said compa-
 8 ny.

V. *Be it further enacted*, That the said commissioners
 2 or their agents, shall further, after election of
 3 president and directors of the company, pay over to the
 4 said president and directors, all monies received by them;
 5 and on failure thereof, the said president and directors
 6 may recover the amount due from them or from any one
 7 or more of them, by legal process in the Court of Pleas
 8 and Quarter Sessions, or in the Superior Court of law in
 9 any county wherein such commissioner or commission-
 10 ers, their executors or administrators may reside, or by
 11 warrant before a justice of the peace of said county.

VI. *Be it further enacted*, That when twenty five
 2 thousand dollars shall have been subscribed, public notice
 3 of that event shall be given by the said commissioners at
 4 Morganton, who shall have power at the same time to
 5 call a general meeting of the stockholders, at such con-
 6 venient place and time as they shall name in said notice.

VII. *Be it further enacted*, That to constitute any
 2 such meeting, a number of persons entitled to a majority

3 of all the votes which could be given upon all the shares
 4 subscribed, shall be present either in person or by proxy;
 5 and if a sufficient number to constitute a meeting do not
 6 attend on that day, those who attend shall have the pow-
 7 er to adjourn from time to time, until a meeting shall be
 8 formed.

VIII. *Be it further enacted*, That the subscribers, at
 2 their general meeting before directed and the proprietors
 3 of stock at every annual meeting thereafter; shall elect a
 4 president and nine directors, who shall continue in office,
 5 unless sooner removed, until the next annual meeting af-
 6 ter their election and until their successors shall be elect-
 7 ed; but the said president and directors or any of them
 8 may at any time be removed, and the vacancy thereby
 9 occasioned be filled by a majority of votes given at any
 10 general meeting. The president with any three or more
 11 directors; or in the event of the sickness, absence or dis-
 12 ability of the president, any five or more of the directors
 13 may appoint one of their own body president *pro tem*.
 14 and shall constitute a board for the transaction of busi-
 15 ness. In cases of vacancy happening in the office of pre-
 16 sident or any director, from death, resignation or other-
 17 wise, such vacancy may be supplied by the appointment
 18 of the board until the next annual meeting.

IX. *Be it further enacted*, That the president and di-
 2 rectors shall be and they are hereby invested, with all the
 3 rights and powers necessary for the construction, repairs
 4 and maintaining of a Plank Road to be located as afore-
 5 said, and may cause to be made and also to make and
 6 construct all works whatsoever, which may be necessary
 7 and expedient in order to the proper completion of said
 8 road.

X. *Be it further enacted*, That the said president and
 2 directors shall have power to make contracts with any
 3 person or persons, on the behalf of the company, for mak-
 4 ing the said road and performing all other things respect-
 5 ing the same, which they shall judge necessary and prop-

6 er, and to require, from the subscribers, from time to time,
 7 such advances of money on their respective shares, as
 8 the wants of the company may demand, until the whole
 9 of their subscriptions shall be advanced; to call on any
 10 emergency a general meeting of the stockholders, giving
 11 one months notice thereof in one of the newspapers print-
 12 ed in each of the towns of Charlotte, Lincolnton and
 13 Salisbury: To appoint a treasurer from among the stock-
 14 holders, (but not of their own body,) who shall give bond
 15 and security for the faithful discharge of his duty, and
 16 duly accounting for all the money which may come into
 17 his hands as treasurer; to appoint a clerk and such man-
 18 agers and toll gatherers as they may deem necessary; and
 19 to transact all the business of the company during the
 20 intervals between the general meetings of the stockhold-
 21 ers.

XI. *Be it further enacted*, That if any stockholder
 2 shall fail to pay the sum required of him by the presi-
 3 dent and directors or by a majority of them, within one
 4 month after the same shall have been advertised, in one
 5 of the newspapers printed in each of the towns of Char-
 6 lotte, Lincolnton and Salisbury, it shall and may be law-
 7 ful for the president and directors, or a majority of them,
 8 to sell at public auction, and to convey to the purchaser
 9 the share or shares, of such stockholders so failing or re-
 10 fusing, giving one month's previous notice of the time and
 11 place of sale in manner aforesaid; and after retaining the
 12 sum due and all the charges of the sale, out of the pro-
 13 ceeds thereof, to pay the surplus over to the former, or to
 14 his legal representatives; and if the said sale shall not pro-
 15 duce the sum required to be advanced, with all the inci-
 16 dental charges attending the sale, then the president and
 17 directors may recover the balance of the original proprie-
 18 tor or his assignee or the executor or administrator, or
 19 either of them, by suit in any Court of record having
 20 jurisdiction thereof, or by warrant before any justice of the
 21 peace of the county of which he is a resident; and any

22 purchaser of the stock of the company, under the sale
 23 by the president and directors shall be subject to the
 24 same rules and regulations as the original proprietors.

XII. *Be it further enacted*, That if the capital stock of
 2 the company hereby incorporated shall be found insuffi-
 3 cient for the purposes of this act, it shall and may be
 4 lawful for the president and directors of said company,
 5 or a majority of them, from time to time, to increase the
 6 said capital stock, not exceeding two hundred thousand
 7 dollars, by the addition of as many shares as they may
 8 deem necessary, first giving the individual stockholders,
 9 for the time being, or their legal representatives, the op-
 10 tion of taking such additional shares in proportion to the
 11 amount of stock respectively held by them, and opening
 12 books in the towns of Charlotte, Lincolnton, Salisbury,
 13 Statesville, Newton, Morganton and Marion, for any
 14 balance of the capital stock created, which may not be
 15 taken by the stockholders, for the time being, or in their
 16 behalf; and the subscribers for such additional shares of
 17 the capital stock in said company, are hereby declared to
 18 be thenceforward incorporated into the said company,
 19 with all the privileges and advantages, and subject to all
 20 the liabilities of the original stockholders.

XIII. *Be it further enacted*, That the president and
 2 directors, their officers or agents, may agree with the own-
 3 ers of any land, over which the said road may pass, for
 4 the purchase thereof, and in case of disagreement, or if
 5 the owners shall be *feme covert*, under age or *non compos*,
 6 or out of the State, on application to any two justices of
 7 the peace of the county where the lands lie; the justices
 8 shall issue their warrant to the sheriff of said county,
 9 where the lands lie, to summon eighteen freeholders, to
 10 meet on the land to be valued, on a day expressed in the
 11 said warrant, not less than ten, nor more than twenty
 12 days thereafter, and the sheriff on receipt of the warrant
 13 shall summon the freeholders accordingly, and when met,

14 shall draw twelve of them, who, after being duly sworn,
 15 will impartially value the land in question, and consider
 16 the damages the owners thereof may sustain; and the in-
 17 quisition so taken shall be signed by the sheriff and jury,
 18 and returned to the clerk of the County Court, to be re-
 19 corded: and in all cases the jury is hereby directed to
 20 describe the land valued, and such valuation shall be con-
 21 clusive, and the president and directors shall pay the
 22 sum to the owner of the land valued, or his legal repre-
 23 sentatives, and if neither can be found in this State, or if
 24 they should refuse to receive the money, then to the clerk
 25 of the County Court; and on payment thereof, the said
 26 corporation, shall be seized in fee of the land, as fully and
 27 absolutely as if it had been conveyed to them by the own-
 28 ers.

XIV. *Be it further enacted*, That the president and
 2 directors may agree with the proprietor or proprietors,
 3 for any quantity of land not exceeding five acres, at or
 4 near each place or station for collecting tolls, for the pur-
 5 pose of erecting necessary buildings, gates &c.; and in
 6 case of disagreement, or any disabilities aforesaid, or the
 7 owner or owners being out of the State, the same pro-
 8 ceedings may be had and the same conveyances shall fol-
 9 low as are described in the preceding section.

XV. *Be it further enacted*, That it shall and may be
 2 lawful for the said president and directors to demand and
 3 receive, at some convenient toll gates, to be by them erect-
 4 ed, a reasonable toll from all persons using said plank
 5 road, which toll so to be collected, shall be so regulated,
 6 that the profits shall not exceed twenty per cent. on the
 7 capital of said company in any one year.

XVI. *Be it further enacted*, That the said road here-
 2 by authorized to be made by the President and directors,
 3 shall not be less than ten, nor more than thirty feet wide.
 4 And that so soon as ten miles in extent shall have been
 5 constructed, it shall and may be lawful for the president
 6 and directors of said company to erect a toll gate and

7 collect such toll from persons using said road, as may be
 8 determined by the president and directors, in accordance
 9 with the rates imposed by the fifteenth section of this act.
 10 And in like proportion for a greater extent of road; and
 11 if any person or persons shall refuse to pay the toll at
 12 the time of offering to pass the place or places designated
 13 for their collection, and previous to passing the same, the
 14 toll gatherers respectively may refuse a passage to the
 15 person or persons so refusing to pay; and if any person or
 16 persons shall pass, or drive through any wheeled carriage,
 17 or animal liable to toll, without paying the same, he or
 18 they shall be liable to a fine of five dollars, which fine
 19 may be recovered by warrant, before any justice of the
 20 peace for the county wherein such toll gate may be situ-
 21 ated.

XVII. *Be it further enacted*, That if any person or
 2 persons shall willfully or maliciously injure, or in any
 3 manner hurt, damage or obstruct, or shall wilfully or
 4 maliciously cause or aid, or assist or counsel and advise
 5 any other person or persons, to injure, damage or obstruct
 6 the said plank road, toll gates, or toll houses, such person
 7 or persons, so offending, shall be liable to be indicted
 8 therefor, and on conviction, shall be imprisoned or fined
 9 at the discretion of the Court before which said convic-
 10 tion shall take place.

XVIII. *Be it further enacted*, That the president and
 2 directors shall render distinct accounts of their proceed-
 3 ings and disbursements of money to the annual meetings
 4 of the stockholders, and to the Governor of the State.

XIX. Whenever in the construction of said plank road,
 2 it shall be necessary to cross or intersect any established
 3 road or way, it shall be the duty of the president and di-
 4 rectors so to construct the said plank road, across such
 5 established roads, or ways, so as not to impede the pass-
 6 age or transportation of persons or property along the
 7 same. And if in the construction of said plank road, it
 8 may become necessary or expedient to use any portion of

9 the established public road, it may be lawful for the presi-
 10 dent and directors to change the said road at points where
 11 they may deem it necessary, and that for entering upon
 12 or taking any land, they shall be and are hereby author-
 13 ized to proceed, under the provisions of this act, as in the
 14 case of land necessary for the plank road: *Provided*
 15 *further*, that previous to making said change, the said
 16 company shall make a road equally good with the por-
 17 tion of the road proposed to be substituted, but nothing
 18 herein contained shall be so construed as to make it in-
 19 cumbent on the company to keep in repair the portion of
 20 any road changed as aforesaid.

XX. Whenever ninety six thousand dollars of the capi-
 2 tal stock of said company shall be subscribed by individ-
 3 uals or corporations as hereinbefore provided, the treasur-
 4 er of the State, for the time being shall be, and he is here-
 5 by authorized and directed to subscribe, on the part of the
 6 State, forty eight thousand dollars, which subscription
 7 shall be discharged by setting apart, transferring or paying
 8 over to the president and directors of said plank road, or
 9 their agent, bonds due the State for the sales of Chero-
 10 kee lands to the amount of forty eight thousand dollars,
 11 so that the State shall hold an interest *pro rata*, accord-
 12 ing to the whole amount of capital stock subscribed in
 13 said plank road: *Provided however*, that the State shall
 14 not be called on to pay any instalment of such subscrip-
 15 tion but as follows: whenever the fact shall be established
 16 by the certificate of the president and directors of the
 17 said road, that the aforesaid amount of ninety six thousand
 18 dollars has been subscribed by solvent individuals or cor-
 19 porations, then the treasurer of the State is hereby direct-
 20 ed to pay over to the president and directors of said road,
 21 or their agent, bonds due the State, for the sales of the
 22 Cherokee lands, to the amount of the State's subscription
 23 of forty eight thousand dollars in said plank road. And
 24 *provided further*, that nothing herein contained shall
 25 render the State liable for any additional subscription

26 whatever should the capital stock of said company be in-
27 creased.

XXI. In all general meetings of the stockholders, the
2 board of Internal Improvements, or such person or per-
3 sons, shall be entitled to represent the stock held by the
4 State and shall be entitled to give one-third of the whole
5 number of votes which may be presented at such meet-
6 ings, either in person or by proxy.

XXII. *Be it further enacted*, That so much of an act
2 of the General Assembly of 1848-49, Chap. XC, entitled
3 an act to provide for a Turnpike road, West, to the line
4 of the State of Georgia, that lays out and establishes a
5 turnpike road from the East base of the Blue Ridge to
6 Salisbury, be and the same is hereby repealed.

XXIII. *Be it further enacted*, That all laws and claus-
2 es of laws coming within the meaning and purview of
3 this act, be, and the same are hereby repealed.

XXIV. *Be it further enacted*, That this act shall be in
2 force from and after the ratification thereof, and shall be
3 regarded as a public act, and continue in force for fifty
4 years.

REPORT
OF THE
COMMITTEE ON FINANCE.

[Reported by Mr. S. J. PERSON, from the Committee on Finance. Ordered to be sent to the Senate, with a proposition to print.]

The Committee on Finance have examined the accounts and vouchers of the Treasurer of the State, and report that they are correct, except as to the sum of ninety dollars improperly paid to Hon. Jno. M. Dick, for holding a special term of the Superior Court of Guilford county, in September 1850; which would leave the balance on hand in cash, on the 1st Nov. 1850, \$109,114 90, instead of \$109,024 90, as reported by the Treasurer.

The committee have also compared the Treasurer's Books with the Books of the Banks, and find that there was deposited in the Bank of Cape Fear, on the 1st of Nov., 1850, \$65,228 71—a larger sum by \$243, than reported by the Treasurer. And in the Bank of the State, \$43,802 65, a sum larger by \$58 50, than reported by the Treasurer; but the committee are satisfied that this difference results from the fact that some drafts of the Treasurer, drawn upon these Banks before the 1st of Nov., 1850, had not been presented for payment up to that day.

The committee further report, that they find that \$11,308 32, have been paid by the Treasurer upon the warrants of his Excellency, Gov. Manly, on account of the Salisbury and Western Turnpike Road. And your committee think that the said warrants were issued and paid without authority of law. The act incorporating that company, appropriates only the proceeds of the Cherokee lands to that work, and, in the opinion of the committee, there was no authority given to pay any money on account of that road, except such as

the bonds, judgments and future sales of the Cherokee lands shall yield.

And your committee are not only of opinion that there was no authority to pay this sum, but that the charges made, and the amount of money expended for the survey of that road, are enormous.

Your committee ask leave to make a further report in relation to this subject.

SAM'L J. PERSON, *Chairman.*

[HOUSE Doc. No. 70.]

A B I L L

TO INCORPORATE

YADKIN NAVIGATION

COMPANY.

RALEIGH:

Thos. J. Lomay, Printer to the State.

1850.

HOUSE COMMONS, December 12, 1850.

[Introduced by Mr. GORDON.]

[Read first time and passed, and on motion of Mr. GORDON referred to the Committee on Internal Improvements, and ordered to be printed.]

A BILL

To Incorporate the Yadkin Navigation Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a communication by Steamboat navigation upon the Yadkin River from that point where the North Carolina Rail Road shall pass over the said River to the town of Wilkesboro' in the county of Wilkes, the formation of a corporate Company, with a capital stock of Three Hundred thousand Dollars, is hereby authorized; to be called "the Yadkin Navigation company," and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic for fifty years.

II. That for the purpose of creating the capital stock of said Company, the following persons be and the same are hereby appointed and constituted a board of commissioners, (to wit:) Hamilton C. Jones of the county of Rowan, Thales McDonald of the county of Davidson, Peter Hairston of the county of Davie, of the county of Surry, and of the county of Wilkes; whose duty it shall be to direct the opening of books for subscription of stock, at such times and places and under the direction of such persons as they or a majority of them may designate; and the said board of commissioners shall appoint a chairman of their body, Treasurer and all other necessary officers, and in the name of the Board to sue for and recover all sums of money that ought, under this Act, to be received by them.

III. That all persons who may hereafter be authorized to open books for the subscription of stock to said company, by the Board of Commissioners herein before appointed for that purpose, shall open books at any time after the ratification of this Act, ten days previous notice being given in some one or more of the public newspapers in this State; and that said books, when opened, shall be kept open for the space of ten days at least, and as long thereafter as the Board of Commissioners above named, shall direct; that all subscriptions of stock shall be in

11 shares of one hundred dollars, the subscriber paying at
 12 the time of making such subscription, five dollars on each
 13 share thus subscribed, to the person or persons authorized
 14 to receive such subscription; and in case of failure to pay
 15 said sum, all such subscriptions shall be void, but only at
 16 the option of the said Board of Commissioners or of the
 17 Company after it shall have been formed, who may, if they
 18 choose, treat the same as valid and sue for and recover the
 19 said sum; and upon closing the books, all such sums as
 20 shall have been thus received of subscribers on the first
 21 cash instalment, shall be paid over to the said Board of
 22 Commissioners by the persons receiving them; and for
 23 failure thereof such person or persons shall be personally
 24 liable to said Board of Commissioners before the organi-
 25 zation of said company and to the company itself after its
 26 organization, to be recovered in the Superior Court of
 27 Law within this State, in the county where such delinquent
 28 resides, or if he resides in any other State, then in any of
 29 the Superior Courts of Law in either of the Counties of
 30 Rowan, Davidson, Davie, Surry or Wilkes: And the said
 31 Board of Commissioners shall have power to call on and
 32 require all persons empowered to receive subscriptions of
 33 stock, at any time and from time to time, as a majority of
 34 them may think proper, to make a return of the stock by
 35 them respectively received and to make payment of all
 36 sums of money made by the subscribers; That all persons
 37 receiving subscriptions of stock shall pass a receipt to the
 38 subscriber or subscribers for the payment of the first in-
 39 stalment, as heretofore required to be paid; and upon
 40 their settlement with the Board of Commissioners as afore-
 41 said, it shall be the duty of the said Board in like manner
 42 to pass their receipt for all sums thus received, to the per-
 43 sons from whom received; and such receipts shall be taken
 44 and held to be good and sufficient vouchers to the persons
 45 holding them.

IV. It shall be the duty of said Board of Commissioners
 2 to direct and authorize the opening of books for the sub-
 3 scription of stock in the manner above described, until
 4 the sum of one hundred thousand dollars shall have been
 5 subscribed to the capital stock of said company; and as
 6 soon as such sum shall have been subscribed and the in-
 7 stalment of five dollars per share on said sum shall have
 8 been received by the said Board, said Company shall be
 9 regarded as formed; and the said Board of Commissioners
 10 or a majority of them, shall sign and seal a duplicate de-
 11 claration to that effect, with the names of the subscribers

12 appended, and cause one of the said duplicates to be de-
 13 posited in the office of the Secretary of State, and thence-
 14 forth, from the closing of the books of subscription as afore-
 15 said, the subscribers to the stocks shall form one body
 16 politic and corporate, in deed and in law, for the purposes
 17 aforesaid, by the name and style of the "Yadkin Naviga-
 18 tion Company.

V. That whenever the sum of one hundred thousand dol-
 2 lars shall have been thus subscribed, the subscribers, their
 3 executors, administrators and assigns, shall be, and they
 4 are hereby declared to be incorporated into a company
 5 by the name and style of the "Yadkin Navigation Com-
 6 pany," and by that name shall be capable in Law and
 7 Equity of purchasing, holding, selling, leasing and con-
 8 veying estates, real, personal and mixed, and of acquiring
 9 the same by gift or devise, so far as shall be necessary for
 10 the purposes embraced within the scope, object and intent
 11 of their charter and no further; and shall have perpetual
 12 succession, and by their corporate name may sue and be
 13 sued, plead and be impleaded in any Court of Law or
 14 Equity in the State of North Carolina; and may have
 15 and use a common seal, which they may alter and renew
 16 at their pleasure; and shall have and enjoy all other
 17 rights and immunities which other corporate bodies may
 18 and of right do exercise; and may make all such by-laws,
 19 rules and regulations, as are necessary for the government
 20 of the corporation, for effecting the object for which it is
 21 created, not inconsistent with the Constitution and laws of
 22 this State or of the United States.

VI. That notice of process served upon any of the Di-
 2 rectors of said Company, shall be taken and deemed lawful
 3 notice of service of process upon the Company, so as to
 4 bring it before any Court within this State.

VII. That as soon as the sum of one hundred thousand
 2 dollars shall have been subscribed as aforesaid, it shall
 3 be the duty of the said Board of Commissioners to appoint
 4 a time for the stockholders to meet at Mocksville in Davie
 5 County, which they shall cause to be previously published
 6 for the space of twenty days in one or more newspapers in
 7 this State; at which time and place the said Stockholders,
 8 in person or by proxy, shall proceed to elect the directors
 9 of said Company, and to enact all such regulations and by-
 10 laws as may be necessary for the government of the cor-
 11 poration and the transaction of its business; The persons
 12 elected Directors at this meeting, shall serve such period,
 13 not exceeding one year, as the stockholders may direct;

14 and at this meeting the stockholders shall fix on the day
 15 and place or places where the subsequent election of Di-
 16 rectors shall be held; and such elections shall henceforth
 17 be annually made, but if the day for the annual election
 18 should pass without any election of Directors, the corpor-
 19 ation shall not be thereby dissolved, but it shall be lawful
 20 on any other day to hold and make such election in such
 21 manner as may be prescribed by a by-law of the corpor-
 22 ation.

VIII. That at such first general meeting of stockhol-
 2 ders, a majority of all the shares subscribed shall be rep-
 3 resented before proceeding to business; and if a sufficient
 4 number do not appear on the day appointed, those who
 4 do attend shall have power to adjourn from time to time
 5 until a regular meeting shall be thus formed; and at such
 6 meeting the stockholders may provide by a by-law as to
 7 the number of stockholders and the amount of stock to be
 8 held by them which shall constitute a quorum at all sub-
 9 sequent meetings of stockholders or directors.

IX. That at all elections, and upon all votes taken at
 2 any meeting of the stockholders, each share of stock shall
 3 be entitled to one vote, and any stockholder in said com-
 4 pany may vote by proxy, and proxies may be verified in
 5 such manner as the by-laws of the company may pre-
 6 scribe.

X. That the affairs of the company shall be managed by
 2 twelve Directors, to be elected annually from among the
 3 stockholders, by ballot, and a majority of the stock repre-
 4 sented; who shall have power to fill vacancies in their
 5 number.

XI. That the President of the company shall be elected
 2 by the Directors from among their number in the manner
 3 prescribed by the by-laws of the corporation.

XII. That the said Board of Commissioners shall make
 2 their return of the shares of stock subscribed for, at the
 3 first general meeting of the stockholders, and shall at the
 4 same time pay over all sums of money by them received
 5 to the Company's Agent, and for failure so to do, shall be
 6 personally liable at the suit of said Company.

XIII. That all contracts and agreements, authenticated
 2 by the President and Secretary of the Board of Directors,
 3 shall be binding on the company without a seal, and such
 4 mode of authentication may be used as the regulations of
 5 the company may prescribe.

XIV. That the said Board of Directors may call for the
 2 payment of the sums subscribed as stock in said company,

3 in such instalments as the interest of said company may
 4 in their opinion require; the call for each payment shall
 5 be published in one or more newspapers in this State for
 6 the space of one month before the day of payment; and
 7 on failure of any stockholder to pay such instalment as
 8 thus required, the Directors may sell at public auction, on
 9 a previous notice of ten days, for cash, all the stock sub-
 10 scribed for in said company by such stockholder, and con-
 11 vey the same to the purchaser at said sale; and if said
 12 sale of stock do not produce enough to pay off the inci-
 13 dental expenses of the sale, and the entire amount by such
 14 stockholder to the company for such subscription of stock,
 15 then and in that case the whole of such balance shall be
 16 held and taken as due at once to the company, and may
 17 be recovered of such stockholder or his executors, admin-
 18 istrators and assigns, at the suit of said company, either
 19 by summary motion in any Court of Superior jurisdiction
 20 in the county where the delinquent resides, on a previous
 21 notice of ten days to such subscriber, or by the action of
 22 assumpsit in any Court of competent jurisdiction, or by a
 23 warrant before a justice of the peace, where the sum claim-
 24 ed does not exceed one hundred dollars; and in all cases
 25 of the assignment of stock, before the whole amount has
 26 been paid to the company, then for all sums due on such
 27 stock, both the original subscribers, and the first and all
 28 subsequent assignees shall be liable to the company, and
 29 the same may be recovered as above described.

XV. That the debt of stockholders, due to the company
 2 for stock therein, either as original holder or first or sub-
 3 sequent assignee, shall be considered as of equal dignity
 4 with judgments in the application of the assets of a de-
 5 ceased stockholder, by his legal representatives.

XVI. That said company shall issue certificates of stock
 2 to its members, which shall be transferable in such manner
 3 as may be prescribed by the regulations of the corpora-
 4 tion; and the said company shall have power to increase
 5 their capital at any time to an amount not exceeding three
 6 hundred thousand dollars, either by opening books for the
 7 subscription of stock or by selling such new stock.

XVII. That the said company be and they are hereby
 2 authorized to open and construct works in and upon the
 3 Yadkin River, for the purpose of effecting navigation by
 4 Steamboat and otherwise upon said River from that point
 5 where the North Carolina Rail Road shall pass over the
 6 same to the town of Wilkesboro' in the county of Wilkes;
 7 and to this end shall have power to contract with any per-

8 son or persons, for and on behalf of the company, for con-
 9 structing said work and building all such locks, dams, ca-
 10 nals and other structures which they may deem necessary
 11 to carry out and effectuate the objects and intent of
 12 this Act of incorporation; And to appoint a Clerk, Treas-
 13 urer and all such other officers as they may think neces-
 14 sary and proper, and to transact all the business of the
 15 company during the intervals between the general meet-
 16 ings of the stockholders.

XVIII. That the said President and Directors, their of-
 2 ficers and servants, shall have full power and authority
 3 to enter upon all lands and tenements through which they
 4 may desire to conduct their works, and to lay out the same
 5 according to their pleasure, so that the mill house, yard
 6 and other buildings of any person be not invaded without
 7 his consent; and they shall have power to enter on and
 8 lay out such contiguous land, as they may desire to oc-
 9 cupy, as sites for depots, store houses, ware houses, toll
 10 houses, and other buildings for the necessary accomoda-
 11 tion of their officers, agents and servants, their horses,
 12 mules and cattle, and for the protection of the property of
 13 the company: *Provided*, that the land so laid out for
 14 these latter purposes shall not exceed two acres in any one
 15 parcel.

XIX. That if the President and Directors cannot agree
 2 with the owner or owners of the land so entered upon and
 3 laid out by them, as to the terms of purchase, it shall be
 4 lawful for them to apply to the Court of Pleas and Quar-
 5 ter Sessions of the county in which a part of said land
 6 lies; and upon such application the Court shall appoint
 7 five discreet freeholders, to assess the damages to the
 8 owners from the condemnation of the land aforesaid: That
 9 no such appointment, however, shall be made unless it ap-
 10 pear to the Court that ten days previous notice of the ap-
 11 plication shall have been given to the owner of the land,
 12 or to the guardian if the owner be an infant, or the Com-
 13 mittee if the owner be a lunatic or *non compos mentis*,
 14 if such owner, guardian or Committee reside in the State;
 15 but if they or any of them shall reside out of the State,
 16 then publication of an intention to make such application
 17 shall be made for the space of one month in some one or
 18 more newspapers within this State: A day for the meet-
 19 ing of said freeholders, to perform the duty assigned them,
 20 shall be designated in the order appointing them; and any
 21 one or more of them attending on that day may adjourn
 22 from time to time until their business shall be finished;

23 and of the five freeholders any three or more of them may
 24 act, after having been duly sworn or solemnly affirmed
 25 before some justice of the peace that they will impartially
 26 and justly ascertain the damages which will be sustained
 27 by the proprietors of the land from the condemnation
 28 thereof, and that they will truly certify their proceedings
 29 thereupon to the Court of the said county making the
 30 appointment.

XX. It shall be the duty of the said freeholders, in pur-
 2 suance of the order appointing them, to assemble on the
 3 land proposed to be condemned, and after surveying the
 4 same and hearing such proper evidence as the party may
 5 offer, they shall ascertain as nearly as may be the dama-
 6 ges which the proprietors of the land will sustain by the
 7 condemnation thereof, all the attendant circumstances
 8 being considered; and when they shall have agreed upon
 9 the amount of damages, they shall make an accurate re-
 10 port thereof to the Court appointing them, which report
 11 shall also contain a description of the location and quanti-
 12 ty of land so condemned; and appended thereto a cer-
 13 tificate of the magistrate before whom they were qualified,
 14 of such due qualification.

XXI. When said report shall be returned, unless good
 2 cause be shewn at that time, the same shall be confirmed
 3 and spread upon the record: but if said report should be
 4 disaffirmed, or if the said freeholders being unable to
 5 agree, should report their disagreement, or for any other
 6 cause they should fail to report within a reasonable time
 7 after their appointment, the Court may supersede them
 8 and appoint others in their stead.

XXII. The said Court of Pleas and Quarter Sessions
 2 may upon the confirmation of the report of said freehold-
 3 ers, award judgment and execution against said compa-
 4 ny for the amount of damages so assessed; and when the
 5 said judgment shall be paid and discharged, the title of
 6 the land for which such damages are assessed, shall be
 7 vested in the company in the same manner as if the pro-
 8 prietor had sold and conveyed it to them; and the said
 9 Court shall then order the report of the freeholders to be
 10 registered in the county for which the Court sits, and the
 11 same shall be read in evidence as in cases of registered
 12 deeds for the conveyance of land.

XXIII. The said President and Directors for the pur-
 2 pose of constructing their work aforesaid and the works
 3 necessarily connected therewith, or of repairing the same,

4 after they shall have been made, or of enlarging or other-
 5 wise altering the same, shall be at liberty, by themselves,
 6 their officers, agents or servants, at any time, to enter
 7 upon any adjacent land and to cut, quarry, dig, take and
 8 carry away therefrom, any wood, stone, gravel or earth
 9 which they may deem necessary: *Provided*, however,
 10 that they shall not, without the consent of the owner, cut
 11 down any fruit trees, or any tree preserved in any lot or
 12 field for shade or for ornament, nor take any timber, gra-
 13 vel or stone constituting any part of any fence or build-
 14 ing; and for all such wood, stone and gravel thus taken
 15 the said President and Directors shall pay to the owner
 16 or owners thereof a reasonable compensation to be by them
 17 agreed upon; and in case of their failure to agree upon
 18 the value of said articles, then the same shall be valued
 19 by three freeholders appointed by any justice of the peace
 20 of the county where the stone &c. may be situated, upon
 21 the application of the owner thereof, after a previous no-
 22 tice of ten days to the other party; and in case either par-
 23 ty shall be dissatisfied with their determination, an appeal
 24 to the County Court shall be allowed and sent up by the
 25 said justice.

XXIV. That all acts and clauses of acts coming in con-
 2 flict with the purview and meaning of this act, or which
 3 give rights, privileges and franchises at variance with
 4 those given by this act, but which rights, privileges and
 5 franchises have not as yet been used and enjoyed, or
 6 have been abandoned, be and they are hereby repealed.

XXV. The said President and Directors, shall have power
 2 to purchase with the funds of the company, and place on
 3 the river after it shall have been improved, boats of any
 4 description, which they may deem suited to the transpor-
 5 tation of persons and property, and they may if they think
 6 proper, contract with other persons for the transportation
 7 of persons and property upon said River, and said com-
 8 pany or those with whom they contract to carry on such
 9 transportation, shall be deemed and take common carriers
 10 and as such be liable.

XXVI. That said company and all its works shall be ex-
 2 empt from taxation by the State or any county for the
 3 space of fifteen years, and after that time the State may
 4 impose a tax not to exceed twenty five cents per annum
 5 upon the share of stock in said company.

XXVII. So soon as any portion of the said River shall
 2 be in readiness for transportation, it shall be lawful for

3 the said President and Directors, to transport by their
 4 officers or agents, or by contractors under them, persons
 5 and property on the same; and they shall have power to
 6 charge for the transportation of persons, goods, produce,
 7 merchandise and other articles of property, any sum not
 8 exceeding the following rates, (to wit:) on persons, not
 9 exceeding six cents per mile for each person; for the trans-
 10 portation of goods, produce, merchandise and other arti-
 11 cles, not exceeding an average of ten cents per ton per
 12 mile, and for the transportation of the mail, such sums as
 13 they may agree for; and they shall also be allowed to
 14 receive for storage and weighing, the usual rates in such
 15 cases, and they shall be allowed to divide the net profits
 16 of the company among the stockholders in proportion to
 17 the stock held by them respectively.

XXVIII. The stock in said company shall be transfera-
 2 ble, under such rules and regulations as their by-laws may
 3 prescribe, and all stock shall be evidenced by certificates
 4 to be issued by the said President and Directors.

XXIX. If any person or persons shall wilfully, injure,
 2 impair or destroy any of the works of said company or
 3 any part thereof, or shall place any obstruction in said
 4 River, such person or persons shall be deemed guilty of a
 5 misdemeanor, and on conviction thereof shall be fined or
 6 imprisoned at the discretion of the Court, and shall moreo-
 7 ver be liable, at suit of said company, in damages.

XXX. That this act shall be in force from and after its
 2 ratification, and so continue for the space of fifty yeas.

[House Doc. 71]

BANK STATEMENTS.

HOUSE COMMONS, December 6, 1850.

[Ordered to be sent to the Senate, with a proposition to print.]

Bank of Cape Fear, Wilmington, N. C., Dec. 4th, 1850.

HON. J. C. DOBBIN.

Speaker of the House of Commons:

SIR: In obedience to the act requiring the President of this Institution to submit to the Legislature a statement of its condition, I have the honor to transmit through you to that honorable body the accompanying statement.

I am, Sir, very respectfully,
your obedient servant,

THOS. H. WRIGHT, *President.*

Statement of the Commercial Bank of Wilmington on Saturday, November 30, 1850.

Notes Discounted,	*152,351 96	
Bills of Exchange,	131,874 30	
	<hr/>	284,226 26

Due from other Banks, viz :

Merchants Bank, New York,	51,437 92	
Union Bank, Boston,	6,593 29	
Bank of North America, Phila.,	4,177 11	
Merchants Bank Baltimore,	665 52	
Exchange Bank of Va., Norfolk,	934 38	
Do " " Richmond,	1,000 00	
Bank of Charleston, So. Ca.,	2,069 36	
	<hr/>	66,877 58

Merchants Bank of Newbern	2,133 79	
Branch Bank State of N. C. Wilm.,	9,548 69	
	<hr/>	11,682 48
Agency at Marion C. H., So. Ca.,		18,693 63
Real Estate, Banking House,		7,882 90

Cash in Specie,	93,514 62	
In Notes and Chs. on other	} 35,958 68	
Banks in this State,		
In Notes of Banks of other States,	2,184 00	
	<hr/>	131,657 30
		<u>\$521,020 15</u>

*Of this sum there is due by Directors.	31,025 00	
Stockholders, not Directors,	28,186 69	
	<hr/>	\$59,211 69

Capital Stock paid in,	182,300 00	
Ditto new account,	1,950 00	
	<hr/>	184,250 00
Notes in Circulation,		269,153 00

Due to other Banks viz :

Bank of Fayetteville,	2,717 22	
Bank of Cape Fear,	16,100 87	
	<hr/>	18,818 09
General Profit and Loss,		12,252 41
Due to Depositors,		36,546 65

\$521,020 15

T. SAVAGE, *Cashier,*

*Dr.**The State of the Bank*Bills and Notes Discounted :

Due by Directors,	44,987 76	
“ “ Stockholders,	114,640 57	
“ “ Others,	337,234 78	
	<hr/>	496,863 11

Bills of Exchange (chiefly 60 days):

Maturing at New York,	86,250 30	
“ “ Philadelphia,	1,797 14	
“ “ Baltimore,	766 73	
	<hr/>	2,563 87
“ “ Columbia, So. Ca.,	1,000 00	
“ “ Wilmiugton,	8,835 64	
	<hr/>	98,649 81

Bank of New York,	12,933 05	
Philadelphia Bank,	4,771 05	
	<hr/>	17,704 10

Commercial Bank Wilmington,	6,713 89	
Bank of Cape Fear at Salem,	201 75	
“ “ “ “ Salisbury,	8,323 30	
	<hr/>	15,238 94

Bank Expenses,	1,463 16	
Salary Account,	900 00	
	<hr/>	2,363 16

Cash Notes Bank of Fayetteville,	141,024 00	
Bank State No. Ca., and Branches,	17,212 00	
“ Cape Fear and Branches,	8,435 00	
Commercial Bank Wilmington,	5,896 00	
Merchant's Bank Newbern,	65 00	
Banks of South Carolina,	13 084 00	
“ “ Virginia,	746 00	
Specie,	74,985 49	
	<hr/>	261,447 49

892,266 61

Bank Note Account,	465,000 00	
On hand,	141,024 00	
	<hr/>	
Circulation,	323,976 00	

of Fayetteville, 25th November, 1850.

Cr.

By Capital Stock,		380,000 00
" Bank Note Account,		465,000 00
" Deposite,		31,617 63
" Interest on Stock,	180 36	
" Dividends unpaid	300 00	
		<hr/> 480 36
" Discounts Received,	11,358 70	
" Profit and Loss,	3,809 92	
		<hr/> 15,168 62
		<hr/> <hr/> 892,266 61

I certify that the above is a true copy of the State of the Bank of Fayetteville, as exhibited by the Books, on the 25th day of November 1850; all of which is respectfully submitted.

Bank of Fayetteville, 3d December, 1850.

JOHN D. STARR, *President.*

HOUSE COMMONS, December 6, 1850.

[Ordered to be sent to the Senate, with a proposition to print.]

Bank of Fayetteville N. C., December 4, 1850.

HON. JAMES C. DOBBIN,

Speaker House of Commons,

Raleigh, North Carolina.

DEAR SIR: I enclose two copies of the State of this Bank, as required by the 13th Section of our Charter, for the use and information of the Senate and House of Commons.

Your obedient servant,

JOHN D. STARR, *President.*

REPORT

OF THE

COMMITTEE ON CLAIMS

ON

THE WESTERN TURNPIKE VOUCHERS.

ACCOMPANIED WITH

A RESOLUTION

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

RESOLUTION

ON

WESTERN TURNPIKE VOUCHERS.

In Senate, 30th Nov. 1850.

[Introduced by Mr. BOWER. Read and referred to Committee on Claims.]

Dec. 12, 1850.

[Ordered that the Report and Vouchers be printed.]

Resolved, That the committee on Claims be instructed to inquire, and report, what was the cost of the survey of the Salisbury and Western Turnpike; what officers were employed, and by what authority; the amount paid each; out of what fund; and whether by authority of law, and if not, by what authority; and that they cause to be printed for the use of the Senate the vouchers for said expenses, heretofore referred to said committee.

REPORT OF COMMITTEE ON CLAIMS.

In compliance with the resolution of the Senate 30th Nov. 1850, referred to the Committee on Claims, I respectfully state, that they have had the same under consideration and instructed me to report.

The whole amount of the cost of the survey of the Salisbury and Westernpike Road is, \$11,457 32
 The following amount was expended in the payment of officers employed in the Survey of the Salisbury and Western Turnpike Road in 1849-'50 :

1850 Nov. 31, paid S. Moylan Fox, Prin. Engineer, from July 5th, 1849, to Nov. 31st, 1850, at \$2500 per annum, 1 year 150 days,	\$3,527 00
Paid John D. Barns, Assisistant Engineer, at different times,	1.266 27
Paid Benj. B. Ruggles, Sub Asssistant do. at different times,	337 66
Paid Saml. Green, do do	603 50
“ J. J. Erwin, Commissioner,	294 00
“ G. W. Hays, “	532 00
“ E. D. Austin, “	242 00
“ A. H. Shuford, “	486 00
“ Do. as Commissary,	111 00
“ Wm. H. Alexander, do.	131 00

The remainder for incidental expenses. Your Committee deem it unnecessary to specify further.

Your Committee, in reference to that part of the resolution aforesaid, which directs them to inquire and report whether the said payments, were made by authority of law, and, if not, by what authority, report to the Senate, that the

payments were made by the Treasurer out of the General Funds in the Treasury, and upon the Warrant of the Governor. The act of 1848 and 1849, chapter 90, entitled "An Act to provide for a Turnpike Road from Salisbury, West, to line of the State of Georgia," Section 3rd, authorises the Governor "to appoint a competent and experienced engineer and three Commissioners, to Survey and locate said road." The 7th section of the said Act is in the following words, to wit:

Be it further enacted, That all the bonds due the State for the sales of the Cherokee lands, and all judgments rendered on such bonds, together with all the lands sold and unsold, when the purchase money has not been paid, in the counties of Cherokee, Macon, and Haywood, are hereby pledged, for the making of the said road, until the same is completed." It is presumed by your Committee that the Governor acted under the impression that the 3rd section of said act empowered him to draw the aforesaid warrant upon the Treasurer. If so, they respectfully differ with him in opinion. Your Committee believe that the General Assembly did not intend to make this Turnpike from Salisbury to the Georgia line a charge upon the Treasury; but that all the expenses incident to its survey, location and construction, should be defrayed out of the funds designated in the 7th section of said act, commonly known as the Cherokee fund; and they have arrived at this conclusion, not only from the 7th section itself, which has been already copied in this report, but also from the 11th section of said Act. The 11th section thereof is in the following words, to wit:

"Be it further enacted, That the Commissioners and agent herein directed to be appointed, shall each receive for their services, two dollars per day, to be paid out of said funds." From the 7th and 11th sections taken together, your committee are well satisfied that it was the intention of the Legislature that this Turnpike Road should not be a burden upon the public revenue generally. If, owing to delay in collecting debts, or any other cause, a sufficiency of

money could not be obtained from the sources pointed out in the 7th section to pay with a reasonable punctuality the persons authorised to be employed by the Governor, and the purposes of justice should require a payment from the Treasury before the Cherokee funds could be made available, still, in the opinion of your committee, no such payments could be lawfully made, without a previous Act of Assembly directing it to be done. The 3rd section of said Act, empowered the Governor "to appoint a competent and experienced Engineer and three Commissioners." Your committee find, in the examination of the vouchers submitted to their inspection, that he has appointed a Principal Engineer, and that Assistant Engineers have been appointed—supposed by the principal; that they are not aware of the existence of any law authorising the appointment of Assistant Engineers.

Your Committee could not, without a dereliction of duty, submit the foregoing facts, without also referring to the condition in which this matter of survey was left at the termination of the last Session of the Legislature. By a resolution of that Session, the collection of all claims arising out of the sales of the Cherokee Lands was suspended for two years from that time.

The act authorising the construction of said Turnpike road, directs the Executive to employ a suitable Engineer and Commissioners for the survey, together with its other provisions, without any express means of defraying the expenses thereof, other than that the road was to be made out of the funds, arising from the sale of said lands, &c.

This conflicting Legislation was calculated to perplex and embarrass any one charged with a matter of such importance—and had not the expense of said survey been paid as it has been, it is very apparent that the work must have been deferred until after the present Session.

Your committee have expressed the opinion that this work was not properly a charge on the General Treasury, but upon the funds arising from said lands—your committee have instructed me to report the accompanying Resolution which

they recommend to the favorable consideration of the Senate. Your committee herewith return all the vouchers relative to the survey, location &c of the Salisbury and Western Turnpike road. Your committee are entirely unacquainted with the price of such services: therefore withhold any expression of opinion. The vouchers will be printed for the use of the Senate. They therefore hope they may be discharged from the further consideration of this subject.

Respectfully submitted,

JNO. H. DRAKE, jr. *Chairman.*

WHEREAS, at the last Session of the General Assembly of the State of North Carolina, an act was passed authorizing the construction of a Turnpike Road from Salisbury, West, to the Georgia line, and that the making of said road should be paid out of funds arising from the Cherokee lands; and whereas the expenses of survey & location have been paid out of the General Treasury of the State :

Therefore Resolved, "That the State Treasurer be and he is hereby authorized and required that, out of the first monies collected on notes, Judgments, or any other claims due and arising from the sale of Cherokee Lands, he retain and return to the General Treasury the sum of eleven thousand four hundred and fifty seven dollars and thirty two cents, with interest thereon from the 20th Nov. 1850—that being the amount expended in the survey of the Salisbury and Western Turnpike road.

Surveys of Western Turnpike in Acc't. with S. M. Fox, Dr.

				Dr.	No. Vou.
1849.					
July	18th,	To cash paid	J. M. Harris	\$5 00	1
"	26	J. Griffiths,	tents	138 81	2
Aug.	2	J. H. Moses,	wagon	60 00	3
"	14	J. J. Smith,	freight	10 00	4
"	16	W. J. Plummer,	harness	40 63	5
"	3	J. J. Shaver,	horse,	130 00	6
"	18	S. S. West,	freight	1 80	7
"	20	Bruner & James,		5 00	8
"	22	W. P. Graham,	rep.	4 00	9
Sep.	3	R. Fox	levelling rod	6 00	10
		J. J. Shaver,	forage	28 75	11
"	20	P. Sigman,	axe-man,	15 00	12
		L. J. Edwards.	do	15 00	13
Nov.	20	J. Green,	repairs	16 00	14
Dec.	12	W. Ellison,	axe-man	60 00	15
		S. Bryson,	do	60 00	16
		M. Shuford	do	60 00	17
		E. Coward	do	60 00	18
		R. Davidson	do	60 00	19
		J. Simpson,	chain	60 00	20
		R. Simpson,	do	60 00	21
		W. Alexander,	wagon	60 00	22
		E. Green,	axe-man	52 50	23
		A. H. Shuford,	Com.	151 00	24
		do do	Forage,	259 29	25
		Howard & Peden,		95 57	26
		Patton & Sumney,		118 09	27
		J. Walker,	stationery,	41 09	28
		Surveying chain,		10 00	29
"	15	G. B. Wade,	rodman,	144 00	30
1850.		R. E. Love,	negro hire,	15 00	31
Feb.	28	J. D. Barnes,	Asst. E.	541 66	32
		S. Green,	Sub do	333 50	33
		Bettercount,	cook	80 00	34
Dec.	15	J. J. Erwin,	mule	20 00	35
Apr.	19	J. J. Shaver,	forage	35 60	36
Feb.	11	Howard & Peden,		23 17	37
Mar.	14	J. J. West,	freight	5 05	38
	20	J. D. Barnes,		2 25	39
	16	T. E. Hargrave,		21 00	40
		Wm. White,	postage,	7 20	41

1850

"	18	J. Green, level. rod	18 00	42
"	20	A Whittington,	20 00	43
"	30	T E Hargrave, ft.	9 75	44
Apr.	1st	E. P Guion, board,	28 91	45
July	22	G Bryson, axe-man	63 75	46
		W Allison, do	15 00	47
		S. Bryson, do	63 75	48
		James Brison, do.	63 75	49
		J A Roberts, do	63 75	50
		M. Hill, do	56 25	51
		A M Shuford, do	56 25	52
Aug.	1st	W Cline, do	20 00	53
"	6	J. M. Shork, do	8 00	54
"	31	S Green, sub. asst. Eng.	270 00	55
"	11	W. Ross, axeman	63 75	56
"	12	W H Alexander com	134 00	57
"	15	do do sundries	168 50	58
"	24	W C Bettercount, cook	132 00	59
Sep.	6	W H Alexander, trans	581 00	60
Aug.	25	do horse feed,	83 40	61
"	15	B B Ruggles, asst. Eng.	211 00	62
Sep.	1st	G. B. Wade, rodman,	120 00	63
		J. D. Barnes, asst. Eng.	502 40	64
Aug.	15	do do Trav. ex.	43 75	65
"	17	J J Shaver, do	20 25	66
"	19	L. H. McLean, do	27 00	67
"	16	J F Chambers, do	26 46	68
"	20	J. D. Barnes,	5 45	69
Jan.	24	J Stevens,	5 85	70
Mar.	5	J Walker, stationery	32 30	71
Feb.	4	H Reum,	1 50	72
Jan.	22	Tucker & Son,	3 05	73
Oct.	14	W G Hill,	40 00	74
"	31	R Smith,	20 00	75
"	1	B B Buggles,	60 00	76
July	31	J B Love, negro hire	3 00	77
Sep.	20	A B Stith, sale horse,	6 65	78
Mar.	11	W Thompson,	3 00	79
Oct.	1	J D Barnes,	83 33	80
Nov.	18	J D Barnes,	138 88	81
		B B Ruggles,	66 66	82
		J D Barnes,	14 25	83
		Ruggles,	8 25	84
		J B Buggles,	45 00	85
	18	H D Turner,	41 12	86
	20	Isam, attending office,	5 00	87

Services as Princ. Engineer, from		
July 5th, 1849, to Nov. 31st, 1850,		
at \$2500 per annum, 1 year, 150		
days.		3,527 00
p. 17	E. P. Guion,	10 40 88
		<hr/>
		9,903 32

Account of monies paid to Commissioners of Western Turnpike.

1849

Dec. 1	Cash paid J J Erwin	\$294 00 8
	" " G W Hayes	532 00 9
	" " A H Shuford	486 00
	" " E D Austin	242 00
		<hr/>
		\$1,554 00

Received on requisitions,	\$10,179 50
By sale of horse, wagon & harness,	149 00

	<hr/>
	\$10,328 50
Total amount of accounts,	11,457 32
	<hr/>

Balance due,	\$1,128 8:
Balance rec'd,	1,128 8:
	<hr/>

DETAILED FORAGE ACCOUNT.

		<i>State of North Carolina,</i>	<i>Dr.</i>
1849			
August	1	Bill in Salisbury,	4 90
	6	do Newton,	50
	6	Shoeing two Horses,	1 50
	7	Bill in Morganton,	2 00
	8	do Carson's,	1 50
	11	Smith's Bridge,	31 ¹ / ₄
	11	Bill at Rutherford's	75
	12	do Botton's	1 50
	12	Smith's Bridge,	12 ¹ / ₂
	15	Bill at Harriss's	1 00
	15	Toll Gate on Hickory Nut Gap	10
	17	Bill at Longerfelt's	50
		Mr. Bruzer's expenses for bringing a load from Salisbury to Shuford's Ferry, Shoeing Mules, &c.,	9 25
	20	1 Collar, Traces, &c.,	2 12 ¹ / ₂
		1 Wagon Whip	62 ¹ / ₂
		1 Wagon Cover	1 56 ¹ / ₄
		1 Extra Mule, 5 days	1 00
	22	18lbs Bacon,	1 80
	22	Corn and Oats	95
	22	Shoeing 2 Mules & Fixing Wagon,	2 00
	22	1 Blind Bridle	1 25
	22	Rope and Pan	59
	22	2 Tin Cups, 2 spoons	18 ³ / ₄
	22	2lb Sugar for Wagoner	20
	23	1 Rope	12 ¹ / ₂
	23	To mak'g 1 axletree & shrink'g tire	2 50
	23	Shoeing Mule and Coffee-Pot	56 ¹ / ₄
	25	Hay Bill at Morganton and Burgurs	3 35
	26	Oats, Corn and Fodder	1 18 ³ / ₄
		12lb Bacon for Wagoner	85
	27	1 ¹ / ₂ Bushel Meal	60
		Shoeing 1 Horse at Waynesville	1 00
	27	Corn and Oats	1 30
	28	6 axe handles	60
		4lb Cheese & Bread for Wagoner	1 10
	29	30lb Bacon for Hands	2 40
	29	6 Loaves Bread for Hands	30
		2lb Coffee do	20

State of North-Carolina,

Dr.

1849			
		3lb Sugar	30
		4lbs do and 3lb Coffee	70
		1 Bushel Apples,	62½
7		Hire of one Buggy	13 50
Sept'r		45lb Beef	1 14
8		Mending a Trace	10
		Flag Staff and Handling 6 axes	56½
		1 Bottle oil	50
		Hay	25
9		Oats, Molasses, Keg,	1 50
		3 Bushels Oats, 54; 4 doz. Fodder,	
		Straw	1 18
13		5 Bushels Oats, Hay	1 65
		2½ Bushels Oats, 45c	45
18		Bucket 25c,	
19		1 Backband 87½c. Hip-strop \$1 37,	
		Belly Band 62½c, Fixing Saddle 62½	3 50
20		2 yd Tow Cloth,	37½
		Bill at Waynesville	75
25		Ferriage on Pigeon	50
		Corn and Fodder to the last Sept.	18 92½
October 1		3½lb Shot,	50
4		1 feed trough	2 00
		1 Chain Staff	35
11		1 Bag	25
		Salt	7½
		Shoeing Mule and Feeding,	70
12		Shoeing 3 Mules	1 00
		Mending Wagon	25
13		Ferriage	2 00
17		Fixing Rod,	25
August 11		Paid for Buggy brought from Salis-	
		bury to Shuford's Ferry,	2 50
		Making Curtains	25
		Fixing Table	40
		Leather	25
		Shoeing 3 Mules and 1 Horse	3 50
		Bill in Morganton	4 00
		do at Smith	1 50
20		Hauling	1 50
		1 Knife for Fox	62½
		Bill at Smythe's	3 60
21		Hauling to Newton	3 00
28		Shoeing 1 Horse	60
		do Fox's horse	1 00
		Box	20

State of North-Carolina,

Dr.

1849		
	To bringing two trunks from Morganton	1 25
Nov'r 14	To making slips for traces	25
	$\frac{1}{2}$ Bushel Salt	50
	1 Oven and Lid,	1 85
	1 Broom	12 $\frac{1}{2}$
	Mending 2 Chairs	05
	1 Halter	75
	Forage from the 1st Oct., to the 1st December	46 56
	Paid Edwards for 1 Months Hire	15 00
	Paid Paul Segmar for 1 Month's Hire	15 00
	1 Wagon Saddle	4 00
Decemb 7	3 doz Fodder	45
	1 bushel Corn	40
	1 $\frac{1}{2}$ do do	60
	4 doz. Fodder	60
	1 $\frac{1}{2}$ bus. Corn	60
	2 doz. Fodder	40
	2 bus	80
	Hay	50
	2 doz. Fodder	40
	1 bush. Corn	40
	2 doz Fodder	40
	Freight	52
July 29	Extra Baggage—Instruments	3 00
29	Fare	6 00
30	Extra Baggage—Instruments	1 50
30	Wagon Hire	4 50
August 3	Extra Baggage	7 00
6	Crupper and Straps	1 12
7	Halter	1 00
13	Nett and Straps	2 00
15	Horse Feed and Shoeing	3 27
16	Saddle Blanket	81
17	Horse Feed	1 50
18	Letter paper	25
25	Bit	12
25	Letter Paper	25
17	do do	30
17	Envelopes	10
17	Horse Cover	4 00
Sept'r 1	Muslin and twine	25
5	Horse Feed	75
Nov'r 20	Horse Feed	2 50

State of North-Carolina,

Dr.

1849			
ov'r 22	Horse Feed,		75
23	do do		75
ec'r 12	Mess Board &c for Cook		24 70
			<u>\$289 63</u>
75	1 bush Corn		11
90	5 doz Fodder		13
90	1 1/2 bush Corn		13
20	Straw		
1 87 1/2	Corn and Fodder		14
87 1/2	do do		16
85	do do		17
57 1/2	1 bush Corn		23
25	1 1/2 doz Fodder		27
30	1 bush Corn		28
1 00	4 doz Fodder		27
50	Corn & Fodder		28
1 05	do do		29
20	Fodder		30
2 40	6 bush Corn		31
75	8 doz Fodder		32
1 00	8 doz do		33
77	1 bush Corn		34
70	8 doz Fodder		35
1 20	3 bush Corn		36
1 20	6 doz Fodder		37
77	2 bush do		38
25	1 do do		39
1 05	3 do do		40
60	2 bush Oats		41
1 00	8 doz Fodder		42
1 05	3 bush Corn		43
1 00	5 doz Fodder		44
45	2 doz Fodder		45
35	1 bush Corn		46
35	2 doz Fodder		47
1 00	2 bush Corn		48
80	Corn and Fodder		49
40	do do		50
4 50	9 bush Corn		51
2 00	12 doz Fodder		52
40	1 bush Corn		53
87 1/2	2 1/2 doz Fodder		54
40	1 bush Corn		55
40	2 doz Fodder		56
1 40	Corn and Fodder		57
80	2 bush Corn		58
60	4 doz Fodder		59
40	1 bush Corn		60

B.

Forage Account for the Month of October.

1849			
October 4	6 bushels Oats	1	25
5	1 do Corn		50
6	1½ do do		75
	5 doz. Fodder		90
	1½ bus. Corn		60
	Straw		20
11	Corn and Fodder	1	87½
12	do do		87½
13	do do		85
	1 bush Corn		37½
14	1½ doz Fodder		25
16	1 bush Corn		30
	4 doz Fodder	1	00
17	Corn & Fodder		50
23	do do	1	05
23	Fodder		20
27	6 bush. Corn	2	40
	6 doz Fodder		75
28	8 doz do	1	00
	1 bush Corn		37
	6 doz Fodder		70
	3 bush Corn	1	20
	6 doz Fodder	1	20
29	2 bush do		77
	½ do do		25
	3 do do	1	05
	2 bush Oats		60
30	8 doz Fodder	1	60
	3 bush Corn	1	05
	5 doz Fodder	1	00
31	3 doz Fodder		45
	1 bush Corn		35
	2 doz Fodder		25
Nov'r 1	2 bush Corn	1	00
8	Corn and Fodder		80
10	do do		40
19	9 bus Corn	4	50
	13 doz Fodder	2	60
24	1 bush Corn		40
	2½ doz Fodder		37½
	1 bush Corn		40
	2 doz Fodder		40
28	Corn and Fodder	1	40
	2 bushels Corn		80
	4 doz Fodder		60
	1 bush Corn		40

B—Continued.

1849		
Decemb'r	3 doz Fodder	60
2	2 bush Corn	1 00
	2 do Oats	50
	4 doz Fodder	60
	Straw	10
	2 doz Fodder	30
	3 bush Corr	1 12 $\frac{1}{2}$
	3 doz Fodder	62 $\frac{1}{2}$
		\$45 39
	Corn and Oats	1,30

VOUCHERS.

[1]

Raleigh, July 18, 1849. Rec'd from S. Moylan Fox, Eng.
West. Turnpike, five dollars, for hire of wagon to Chapel
Hill.

\$5 00

JAMES M. HARRIS.

[2]

State of North Carolina, for survey of Salisbury and Geor-
gia Line Turnpike,

	To John Griffith,	Dr.
For 478 yds. Duck, at 17 c.		\$ 81 26
" Linen Lines for Strings,		9 25
" Working 478 yds in Tents, at 10 c.		47 80
" Packing Box,		50
		<hr/> 138 81

Wilmington, N. C.

Received payment in full of S. M. Fox, Eng'r
West'n Turnpike.

JOHN GRIFFITH.

July 26, 1849.

[3]

August 2d, 1849. Rec'd from S. Moylan Fox, Engineer
Western Turnpike, for the State of North Carolina, sixty
dollars for a wagon.

JAMES H. MORE.

\$60 00

[4]

August 14th. Rec'd from S. Moylan Fox, Eng'r Western
Turnpike, ten dollars, for stage fare for boy Stephen, cook for
Western Turnpike Survey.

\$10 00

JAMES M. SMITH,
per L. M. WILLIAMS.

[5]

State of North Carolina—Surveys of Turnpike Road,
per Fox and Shuford,

Dr. To W. J. Plummer,

1849		D	C
August 16	To one pair Breach Bands	6	50
	To two Blind Bridles	2	00
	To two Belly Bands	1	00
	To one pair Reins	2	50
	To two Collars,	2	25
	To —straps		25
	To three pair Traces	1	50
	To pair Hames		75
		16	75

August 23, 1849. Received from S. Moylan Fox, Eng'r West'n Turnpike, for Survey, &c. sixteen dollars 75 cts. in full for the above bill for harness.

\$16 75.

W. J. PLUMMER.

August 3d, 1849. Rec'd of S Moylan Fox, Eng'r Western Turnpike, for the State of North Carolina, twenty three dollars and 88 cents, in full for bill for saddle, and rendered.

\$23 88.

W. J. PLUMMER.

[6]

1849, August 3d. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, one hundred and thirty dollars for a horse.

JOHN T. SHAVER.

\$130.

[7]

Major S. M. Fox,

To Raleigh and Gaston Railroad,

August 18, 1849, Freight 1 box—Express,

Dr.
\$1 80

Received payment,

JOHN T. WEST.

[8]

August 20th, 1849. Received from S. Moylan Fox, Engineer of the S. & Geo. line turnpike, \$5 for books of printed receipts.

BRUNER & JAMES.

\$5 00

[9]

1849, August 20, S. M. Fox, Engineer of the Western Turnpike, from Salisbury to Asheville,

To W. P. Graham,

Dr

To following wheel for wagon,

2 00

" putting on tier

50

" hand and two horse wagon one day

1 50

\$4 00

Received payment in full,

August 23 1849.

W. P. GRAHAM.

August 22d, 1849. Received from S. Moylan Fox, Engineer Western Turnpike, four dollars, for mending wagon for survey.

W. P. GRAHAM.

\$4 00

[10]

Salisbury, September 3d, 1849. Received from S Moylan Fox, Engineer Western Turnpike, six dollars, for survey, in full of bill rendered for making levelling rod.

RICHARD FOX.

\$6 00

[11]

1849, September 3d. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, twenty-eight dollars, seventy-five cents, in full for freight and horse feed.

JOHN I. SHAVER.

\$28 75

[12]

1849, Sept. 20th. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, fifteen dollars for value received. Extra axeman.

SAMUEL GREEN, Witness.

PAUL + SIGMAN

\$15

[13]

1849, September 20th. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, fifteen dollars for value received. Extra axeman.

S. GREEN, Witness.

JAMES L EDWARDS.

\$15

[14]

Baltimore.

November 20th, 1849. Received of S Moylan Fox, Engineer Western Turnpike N. C., sixteen dollars in full for repairs of Instrument of Survey. for JAMES GREEN.

\$16

Hy. Green.

[15]

1849, December 12th. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty dollars in full for services as axeman from September 15th to January 1, four months @ \$15 ^{per} month.

his

WM. + ELLISON

mark

60

JD. BARNES.

[16]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, sixty dollars, in full, for services as axeman from September 1 to January 1, four months, @ \$15 ^{per} month.

\$60

S. BRYSON.

[17]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty dollars in full for services as axeman, from September 1 to January 1, four months @ \$15 per month.
\$60 A. M. SHUFORD.

[18]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty dollars in full for services as axeman, from September 1 to January 1, four months @ \$15 per month.
\$60 ELISHA COWARD.

[19]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty dollars in full for services as axeman from September 1 to January 1, four months @ \$15 per month.
\$60 R. B. V. DAVIDSON.

[20]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty dollars in full for services as chainman from Sept 1 to Jan 1, four months @ \$15 per month.

his

JOHN + SIMPSON.

mark

J. D. BARNES.

\$60

[21]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike for the State of North Carolina, sixty dollars in full for services as chainman, from Sept. 1st to Jan. 1st, four months at \$15 per month

\$60

RICHARD SIMPSON

[22]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, sixty dollars in full for services as Wagoner from Sept. 1st to Jan. 1st, four months, at \$15 per m.

£6).

WILLIAM H. ALEXANDER.

[23]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, fifty-two dollars 50-100ths in full for services as axe-man from Sept. 15th to Jan. 1st, three and a half months, at \$15.

\$52 50.

ELI GREEN.

[24]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, one hundred and eleven dollars in full for services as Commissary from 8th August to date, 111 days, at \$1.

\$111.

A. H. SHUFORD, Com.

1849, December 12th. Received of S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, forty dollars in full for hire of two mules four months, at \$10.

\$40.

A. H. SHUFORD.

[25]

1849, December 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, two hundred and fifty-nine dollars 29-100ths in full for materials and forage furnished to camp.

\$259 29.

A. H. SHUFORD.

A. H. Shuford, in account with State N. Carolina, for materials and forage furnished to survey of Western Turnpike, from Sept. 1st to Dec. 15th, 1849.

1849.

Forage,	\$110 20
Horse-shoeing and Repairs,	21 05
Freight and Ferriage (for outfit)	67 61
Materials for outfit,	35 73
Mess Board for Cook and assistant	24 70

\$259 29

[26]

State of North-Carolina, by Survey of Western Turnpike,
To Howard & Peden,

Dr

1849

July	20	Cash paid expenses Steven, cook, to Salisbury,	\$4 50
	30	For 3 sheet iron buckets 16s; 2 tin do 9s	5 50
		“ 2 tin do 3s; 2 w basins 40 ^a	1 30
		“ 3 tin dishes 3s; 6 tin plates 62	1 37
	18	“ cups 1,25; 1 coffee pot 35	1 60
		1 coffee boiler 7s 6d	63
	2	setts knives and forks 1 ⁵ / ₈	3 25
	1	do do	1 75
		1 tin pepper box 1s 6d; 2 Salt Cellars 6s	1 13
	4	candle-sticks 2s; 1 sieve	1 02
	1	ladle 3s; 1 flesh fork 6	38
	1	large oven 2 ¹ / ₂ ; 1 spider 10s 6d	3 37
	¹ / ₂	doz azes \$15; 2 Hatchetts 10s 6d	9 17
	2	oil stones 1s 6d; 1 pair spring balances 9s	1 00
	1	painted tub 1,25; 1 ¹ / ₂ doz iron spoons 60	2 15
	1	sauce pan 10s 6d; 1 sash saw 1,17	2 05
	1	coffee mill 9s	75
	1	box soap 68lb 5s ¹ / ₂ d	3 74
	1	grater 17; 2 flour pails 7s 6d	1 10
	1	box sperm candles 30 ¹ / ₂ a50	15 25
	1	flour pail 75c; 1 butter dish 4s6d	75
	¹ / ₂	doz tumblers 12s 33	83
	6	lbs Castile soap 3s	1 50
	1	potatoe masher 13; 1 lantern 1	1 13
	1	gross matches	1 50
	6	lbs wrought nails 2s 3d	1 12
	1	spike gimblet	13
	1	blank book	25
		Freight on goods to Salisbury	22 00
			90 22

Received payment,

HOWARD & PEDEN.

1849, November 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, ninety-five dollars 57-100ths in full of account of sundries as per bill rendered.

HOWARD & PEDEN.

\$95 57

[27]

1850, 24th March, Asheville. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, one hundred and eighteen dollars 9-100ths in full for bill of sundries for survey.

PATTON & SUMMEY.

\$118 09

[28]

Charleston, Dec. 27th, 1849.

Mr. S. M. Fox, Engineer of S. & G L Turnpike,

O BOOK BINDING, O

Bought of Joseph Walker,
dealer in

O Book and Job Printing. O

Paper, Stationery & Acc't Books,
Stationers' Hall, 181 East-Bay.

1849

July 26	6 field books to order	50	3 00
	6 do do	"	3 00
	5 quires medium drawing		4 00
	$\frac{1}{2}$ " double elephant do		5 00
	$\frac{1}{2}$ ream cap P & S blue ruled		1 50
	$\frac{1}{2}$ " letter " " "		1 75
	$\frac{1}{2}$ " Bath post plain		1 88
	1 ps India-rubber		19
	1 bottle of black ink		63
	1 " of Red "		25
	1 doz ps India-rubber		62
	2 " Jackson pencils		2 50
	2 " " "		3 00
	1 " Faber's " drawing		1 75
	3 " red pencils		3 75
	50 quills		1 50
	$\frac{1}{2}$ gross steel pens assorted		1 50
	1 doz. mouth glue		63
	2 ps sponge		38
	1 doz red tape		50
	200 envelopes asst		100
	6 ps red s wax		63
	Box wafers		25
	Wafer Stamp		38
	Instand		100
	Box and drayage		50
			—————\$41 09

Received payment

January 3, 1850.

JOSEPH WALKER.

Charleston, Jany 3rd, 1850, Received from S. Moylan Fox,
Engineer of the Western Turnpike, State of North-Carolina, forty-
one dollars 9-100ths, in full for bill of stationery.

\$41 09

JOSEPH WALKER.

[29]

1850, January 7th. Received from S. Moylan Fox, Engineer
of the Western Turnpike, for the State of North Carolina, ten dol-
lars for one surveying chain.

JNO. D. BARNES.

\$10

[30]

1849, December 15th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, one hundred and five dollars in full for services as Rodman from August 15th to Decr 15th, four months at \$20, and travelling expenses from Wilmington to Asheville \$25.

\$105

G B WADE.

[30]

1850, March 1st. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, twenty-six dollars in full for services as Rodman, one month and for travelling expenses—\$6

\$26

GEORGE B. WADE.

[30]

1849, Decr 15th, Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, thirteen dollars for travelling expenses from Salisbury to Wilmington

\$13

GEORGE B. WADE.

[31]

December 12th, 1849. Received of G W Hays per S M Fox, for hire of boy to cook on the survey of the Turnpike road fifteen, dollars.

R G A LOVE.

[32]

1850, March 1st. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, one hundred and sixty-six dollars 66-100ths in full of services as Assistant Engineer from Jan. 1 to date.

\$166 66

J D BARNES.

[32]

1849, Decr 31st. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, three hundred and seventy-five dollars in full for 4½ months salary as assistant Engineer from August 15th to Decr 31st.

\$375 00

JNO DEAN BARNES

[33]

1849, Decr 31st Received from S M Fox, Engineer of the Western Turnpike, for the State of North Carolina, two hundred and twenty-seven dollars 50-100ths, in full for services as sub-asst. engineer, from August 15th to Decr 31st, 4½ months a \$45, and travelling expenses from Wilmington to Asheville \$25
\$227 50

SAM'L GREEN

[33]

1850, March 1st Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, one hundred and six dollars, in full for services as assistant Engineer from December 31st to March 1st, \$90, and for travelling expenses \$16
\$106

SAM'L GREEN

[34]

1849, Decr 31st Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, eighty dollars in full for hire of boy Stephen, from 20th July to 20th Decr, five months a \$ 16
\$80

W C BETFENCOURT.

[35]

1849, Decr 15th. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, twenty dollars in full for hire of a mule for four months, ending date.
\$20

J J ERWIN

[36]

State of North-Carolina, Survey Western Turnpike,
To John I Shaver

		Dr
Decr 20th	Shoeing horse	\$4 70
	Freight	2 90
	do	4 50
Feb. 28th	Keeping Horse 2 months \$8	16 00
Apl 8th	Keeping horse 5 days	2 50
	" Cook 10 days	5 00
		<hr/> \$35 60

Salisbury, April 19 h, 1850. Received from S M Fox, Engineer Western Turnpike, thirty-five dollars 60-100ths, in full of above bill
\$35 60

JNO I SHAVER.

[37]

State of North-Carolina, Survey of Western Turnpike,
To Howard & Peden, Dr

1850

Feb'y 11	For 1 box, 6lbs, sperm candles 50	\$3 00
"	1 guarded lantern	1 37
"	1 can, 2 galls sperm oil 1,40	3 55
"	1 box sperm candles 30½ a 50	15 25
		<hr/> \$23 17

Received from S Moylan Fox, Engineer of the Western Turnpike, twenty-three dollars 17-100ths in full of above bill.

\$23 17

HOWARD & PEDEN

[38]

1850, March 14. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, five dollars and five cents in full for freight on two boxes.

Date of bills, 1st box, Novr 9, 1850,	\$2 15
" " " 2d " " 12, "	2 90
	<hr/> \$5 05

\$5 05

JOHN T WEST,
Agt R Road

[39]

State of North-Carolina, Dr
To Jno Dean Barnes

March 15, On box for stationary	\$0 75
" 20, Travelling expense	1 50
	<hr/> 2 25

Received of S Moylan Fox two dollars and twenty-five cents in full for above account.

JNO DEAN BARNES

[40]

1850, March 16th Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, twenty-one dollars for stage fare from Raleigh to Greensboro' for surveying party.

THOS E HARGRAVE

\$21

[41]

1850, March 16th, Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, seven dollars and twenty cents for letter postage from 15th of June to the 19th of March

\$7 20

WM. WHITE, P M
pr. WILLIAMS.

[42]

1850, March 18th—New York Received from S. Moylan Fox, Engineer of the Western Turnpike for the State of North-Carolina, eighteen dollars in full for bill of rod and target rendered.

\$18

JAMES GREEN.

[43]

1850, March 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, twenty dollars for passage of surveying party from Greensboro to Salisbury.

\$20

A. WHITTINGTON.

[44]

Raleigh, Mar. 30th, 1850. Received from S. Moylan Fox, Engineer of Western Turnpike, nine dollars 75-100ths in full for freight on boxes to Greensboro.

\$9 75

THOS E. HARGRAVE
Agent for Springs & McLean.

[45]

Raleigh, April 1st, 1850. Received from S. Moylan Fox, twenty-eight dollars and 91-100ths in full for board of Boy Stephen and horse.

\$28 91

E P GUION
By Jno R Utley

[46]

1850, July 22d. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty-three dollars and seventy-five cents in full for service as Rodman from March 15th to July 22d, four and one fourth months.

\$63 75

GOLDMAN BRYSON.

[47]

1850, July 22d. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, fifteen dollars, in full for service as axeman, from June 22d to July 22d. one month.

\$15

M. W. ALLESON.

[48]

1850, July 22d. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty-three dollars and seventy-five cents for service as chainman, from March 15th to July 22d, four and one fourth months.

\$63 75

SAMUEL BRYSON.

[49]

1950, July 22. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty-three dollars and seventy-five cents, for services as chainman, from 15th March to July 22d, four and one fourth months at \$15 00 per month.

\$63 75

JAMES BRYSON.

[50]

1850. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, sixty-three dollars and seventy-five cents, in full for services as axeman from March 15th to July 22d, four and one fourth months, at \$15 per month.

\$63 75

JAMES A. ROBERTS.

[51]

1850, July 22 Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, fifty-six dollars and twenty-five cents for three and three-fourth months services as axeman, from April 1st to July 22nd. M. HILL.
\$56 25

[52]

1850, July 22nd. Received from S. Moylan Fox, Engineer of the Western Turnpike for the State of North-Carolina, fifty-six dollars and twenty-five cents in full, for three and three-fourth months services as axeman, from 1st April to 22nd July.
\$56 25 A. M. SHUFORD.

[53]

1850, August 1. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, twenty dollars in full for services as axeman for $1\frac{1}{2}$ months at \$15.

his
WM. X CLINE.
mark.

Witness,

J. D. BARNES.

\$20.

[54]

1850, August 6th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, eight dollars, in full for eight day's service as axe-man.
\$3 00. J. M. SHORK.

[55]

1850, August 31. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, two hundred and seventy-five dollars, in full for services as Assist. Engineer from March 1st to Augt. 31st, 6 ms. at \$45.
\$270. SAM'L GREEN.

[56]

1850, August 11th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, sixty-three dollars 75-100ths, in full for wages as axeman from April 4th to August 11th, $4\frac{1}{2}$ months at \$15.

WILLIAM ROSS.

\$63 75

[57]

1850, August 12th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, one hundred and thirty-four dollars in full for services as commissary from April 1st to Aug. 12th, 134 days at \$1.

\$134

W. H. ALEXANDER.

[58]

Commissary of survey Western Turnpike, in ac.			Cr.
count with State of North Carolina,			
March 30th, by	1 Oven Lid 65, Hay for Beds 10,		\$0 75
" " "	making 4 Tent poles, \$1,25, Meal		
	Bag 25,		1 50
April 9th, "	6 Tin plates 70, Straw 10, Hay 50,		1 30
" " "	Knives,		0 88
" 23rd, "	Straw $12\frac{1}{2}$, Skillet 1,37 $\frac{1}{2}$, Neck-		
	chain 25,		1 75
" " "	Ferry,		0 20
May 1 "	Washing Tent Fly 50, Hay $12\frac{1}{2}$,		
	Ferry 50,		1 12 $\frac{1}{2}$
3 "	Ferry 45, Straw $6\frac{1}{4}$, Funnel 10,		
	Bag 25,		0 86 $\frac{1}{4}$
" 15 "	Horse feed 50, Crupper $62\frac{1}{2}$, Flag		
	Staff 1,50,		2 62 $\frac{1}{2}$
" 23 "	Looking glass 50, Surveying chain		
	\$8,00,		8 50
" 25 "	Hay 10, Freight from Morganton to		
	French Broad \$9,00,		9 10
" 27 "	Stuff for Flag $1,28\frac{1}{4}$, $\frac{1}{2}$ Ream Letter		
	paper $2.62\frac{1}{2}$.		3 90
" " "	100 envelopes 40, Horse feed 25,		
	Toll 20,		0 85
June 1 "	Hay 25, Freight from French Broad		
	to Scott's Summit \$5,45,		5 70
" 7 "	Shoeing Horse 40, Soap 90, Meal		

		Bag 25,	1 55
"	21	" Shoeing Horses 1, 12 $\frac{1}{2}$, Axe handle 15.	1 27 $\frac{1}{2}$
July	5	" Hay 25, Soap and Matches 50, Box for Books 41,	0 96
"	14	" Freight from Salisbury to Moaganton,	8 00
Aug.	15	" Board or mess account for two cooks from 1st April,	106 87
"	"	" Hire of negro boy from J. Love, for 1 week,	3 00
"	"	" Sundry repairs to Instruments.	5 06
		Trunk for Stationery,	2 75
			<hr/>
			\$168 50 $\frac{3}{4}$

August 15, 1850. Received from S. M. Fox, Eng'nr West'rn Turnpike, one hundred and sixty-eight dollars 50-100ths in full of above account.

\$168 50 $\frac{3}{4}$.

W. H. ALEXANDER.

[59]

1850, August 24th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, one hundred and thirty-two dollars in full for services of boy Stephen from Dec'r 20th to August 27, 8 $\frac{1}{4}$ months at \$16.

\$132.

W. S. BETTERCOURT.

[60]

1850, September 6th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, five hundred and eighty-one dollars in full for hire of wagon, 4 horses and driver, from March 26th to Sept. 6th, 166, days at \$3 50.

\$581 00.

W. H. ALEXANDER.

[61]

1850, August 25th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, eighty-three dollars 40-100ths in full for keeping riding horse from April 8th to date, 139 days, at 60 cts.

\$83 40.

W. H. ALEXANDER.

[62]

1850, August 15th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, two hundred and eleven dollars in full for services as sub. Ass't Engin'r, from March 15th to date, at \$40 pr. m., 5 months, \$200, and travelling ex. from Wilmington to Raleigh. \$11.

\$211.

BENJ. B. RUGGLES.

[63]

1850, September 1st. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolin, one hundred and twenty dollars in full for services as Rodman from March 1st to date, 6 months at \$20.

\$120.

GEORGE B. WADE.

[64]

1850, September 1st. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, five hundred and two dollars 40-100ths in full for services as Sen'r Ass't Engineer from March 1st to date, 6 months, at \$1,000 pr. an. and two dollars 40-100 for horse hire on service.

\$502 40

JNO. DEAN BARNES.

[65]

1850, August 15th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, forty-three dollars 75-100ths in full for travelling ex. of surveying party from Asheville to Salisbury.

\$43 75.

JNO. DEAN BARNES.

[66]

1850, August 17th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, twenty dollars 25-100ths in full for stage fare of surveying party from Salisbury to Greensboro'.

\$20 25.

JNO. S. SHAVER.

[67]

1850, August 19th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, twenty-seven dollars in full for stage fare of surveying party from Greensboro' to Raleigh.

\$27 00.

L. B. McLEAN.

[68]

State of North Carolina for surveys of Western Turnpike,
To J. F. Chambers & Co.

Dr.

1849.

August 11	Expenses of boy Stephen to Asheville,	\$1 50
	Postage,	5
	Receiving and forwarding 19 packages 10	1 90
	1 Bucket 35, 1 Currycomb 15,	50
	3 Halter ropes 65,	65

1850.

March 21	To freight on 782 lbs, from Fayetteville 7	5 47
22	" " " 795 lbs. " do 7	5 56
29	" 2 painted buckets 2 6,	50
" "	" Storage on 17 packages 1,	1 70
" "	" 1 large bucket 10,	1 00
" "	" 4 candlesticks,	60
" "	" M. Brow. oven lid 75, pencils 45,	1 20
April 6	" 1 sett knives &c. 17 6, Teaspoons 2,	2 05
" "	" Brown & Baker, tin ware,	3 78

 \$26 46

August 17th, 1820.

Received payment from S. M. Fox,
J. T. CHAMBERS & &co.

1850, August 16th. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, twenty-six dollars 46-100ths in full for account of sundries rendered.

\$26 46.

JOS. F. CHAMBERS & Co.

[69]

1850, August 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, five dollars and 45-100ths in full for board of cook from Salisbury to Raleigh.

\$5 45.

JNO. DEAN BARNES.

[70]

State of North Carolina Turnpike Survey

To John Stevens

Dr.

Jan. 24th,	To plaining and straightening table and making rulers	\$1 35
	To making drawing table and stools,	4 50
		<hr/> \$5 85

Jan. 31st, 1850. Received from S. Moylan Fox five dollars 85-100ths in full of above bill for survey Western Turnpike.
\$5 85.

Witnees,

SAMUEL GREEN.

his
JOHN X STEVENS.
mark.

[71]

Charleston, July 1st, 1850.

Mr. S. Moylan Fox, Esq. State of N. C.

1850.			To Joseph Walker	Dr.
Jan'y	3rd	12	Level books h'f bound and ruled to order,	6 00
		12	Compass" do do	6 00
Feb'y	2nd	$\frac{1}{2}$	Rm. Cap. & S. Blue ruled & fine 4 50,	2 25
		$\frac{1}{2}$	" Letters P. & S. " " "	2 25
		1	Doz. Jackson's Pencils H	1 25
		1	" H H	1 25
		1	" H H H	1 50
		1	" Red Pencils,	1 00
		200	Envelopes,	80
March	5th	12	Memo. Books dems 8 vo. hf, bd.	4 00
		6	Qrs. Medium,	4 50
		2	" Envelope Paper,	75
		12	P's India Rubber,	75
1950.				<hr/> Cr. 32 30
March	5th	By Cash,		30,00
				<hr/> \$2 30

Dr. Sir,

Above I hand you Bill, which I hope you will find correct, it's all I see charged; this is the second time I have sent this Bill, it must have been lost.

Yours truly,

JOSEPH WALKER,
pr. H. C. COVERT.

1850, November 9th. Received from S. Moylan Fox, Engineer of the Western Turnpike for the State of North Carolina,

thirty-two dollars thirty cents in full for bill of stationery rendered.

JOSEPH WALKER,
pr. H. C, COVERT.

\$32 30.

[72]

Received of Mr. S. M. Fox one dollar and fifty cents for 3 lbs.
Sperm Candles. Raleigh, Feb. 4th, 1850.

HENRY REIM.

[73]

S. M. Fox, Eng'nr.

1850

Jan.	22	To	6 yds. Baize,	Bot. of R. Tucker & Son.	
		"	1 Basin,	35	\$2 10
		"	1 Broom,		35
		"	1 Paper Tacks,		35
		"	2 Tumblers,	7½	10
					15

Rec'd payment,

R. TUCKER & SON,
By T. McGEE.

[74]

1850, Oct. 14th. Received from S. Moylan Fox, Engineer of
the Western Turnpike, for the State of North Carolina, forty dol-
lars in full for 40 days' work in transcribing level notes.

\$40.

WM. G. HILL, Jr.

[75]

1850, Oct. 31st. Received from S. Moylan Fox, Engineer of
the Western Turnpike, for the State of North Carolina, twenty
dollars in full for rent of Office.

\$20.

RICHARD SMITH.

[76]

1850, Oct. 1st. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, sixty dollars in full for services from 15th August to date, $1\frac{1}{2}$ months at \$40. \$60.

BENJ. B. RUGGLES.

[77]

Received of S. M. Fox three dollars in full for hire of boy as cook by day. July 31st, 1850. \$3 00.

JOHN B. LOVE.

[78]

State of North Carolina,

	To A. B. Stith & Co.	Dr.
To 5 pr. ct. Commissions on sale of Horse sold Major		
Hinton \$103,		5 15
" Cash paid for hand bills for advertising same,		1 50
		<hr/> \$6 65

Sept. 20, 1850. Received payment of Major Fox,

A, B. STITH & Co.
pr. H. H. POTTER.

[79]

1850, March 11th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, three dollars in full for making drawing board. \$3 00.

WILLIAM THOTPSON,
pr. W. H. THOMPSON.

[80]

1850, October 1st. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, eighty-three dollars 33-100ths in full for services as Sen'r Ass't Engn'r, up to date. 1 month at \$1,000 per an. \$83 33.

JNO. DEAN BARNES.

[81]

1850, Nov. 20. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, one hundred and thirty-eight dollars 98-100ths in full for services as Ass't Eng'n'r, from Oct. 1st to date.

\$138 88.

JNO. DEAN BARNES,

[82]

1850, Nov. 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, sixty-six dollars 66-100ths in full for services as sub. Ass't Eng'n'r, from Oct'r 1st to date.

\$66 66.

BENJ. B. RUGGLES,

[83]

1850, Nov. 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, fourteen dollars 25-100ths in full for travelling expenses from Goldsboro' to Raleigh for boy Stephen and G. B. Wade.

\$14 25.

JNO. DEAN BARNES.

[84]

1850, Nov. 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, eight dollars 25-100ths in full for travelling expenses of boy Stephen to Wilmington.

\$8 25.

BENJ. B. RUGGLES.

[85]

1850, Nov. 20. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, forty-five dollars in full for transcribing survey notes in Record Book.

\$45 00.

BENJ. B. RUGGLES.

[86]

Survey Western Turnpike, State of North-Carolina,				To H. D. Turner,	Dr.
1850					
Sept.	2	To	1 quire Letter paper,		\$0 30
"	"	"	" do do		25
"	"	"	1 pack. envelopes,		15
"	4	"	2 Record books, 7 quires,		14 00
"	5	"	2 pieces Indian Ink,		50
"	"	"	1 Bottle red do		12
"	18	"	25 sheets Profile paper,		6 00
"	"	"	50 do Portrait do		12 00
"	"	"	1 quire blotting,		50
"	28	"	1 Box Pencils,		75
"	30	"	2 sheets Drawing paper,		3 00
Oct.	"	"	1 box Pencils,		75
"	31	"	binding Maps,		2 50
Nov.	2	2	pack Envelopes,		30
					\$41 12

Nov. 17th, 1850. Received payment,

H. D. TURNER.
by R. E. MATTOX.

Raleigh, 19th Nov., 1850.

[87]

1850, Nov'r 20. Rec'd of S Moylan Fox, Eng'r Western Turnpike, for the State of North Carolina, five dollars in full for hire of boy Isam to attend office from Sept 1st.

JNO. DEAN BARNES
\$5 00 for boy Isam.

[88]

State of North-Carolina, Western Turnpike,		To E P Guion,	Dr.
Sep. 17th,	To board of horse for 2 weeks and 11 days	\$10 40	
Sep. 17th, 1850.	Received from S. Moylan Fox ten dollars		
40-100ths,	in full of above bill.	E. P. GUION,	
		by L F Smith.	

[89]

1849, Decr 1st. Received from S Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, two hun-

dred and fifty-four dollars in full for pay as commissioner from July 27th to Novr 30 inclusive, 127 days at \$2 J. J. ERWIN.
\$254

Morganton, May 13th, 1850. Received from S. Moylan Fox, Engineer Western Turnpike, forty dollars in full for services as commissioner of Western Turnpike, ending Dec'r 20th, 1849.
\$40 J. J. ERWIN.

[90]

1850, Nov. 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North Carolina, five hundred and thirty-two dollars, in full for services as Commissioner from 1st July, 1849, to date, 266 days at \$2 00.
\$532 G. W. HAYES.

[91]

1850, Nov. 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, four hundred and eighty-six dollars, in full for services as Commissioner from the 1st July 1849, to date, 243 days at \$2 00.
\$486 00 A. W. SHUFORD.

[92]

1850, November 20th. Received from S. Moylan Fox, Engineer of the Western Turnpike, for the State of North-Carolina, two hundred and forty-two dollars, in full for services as Commissioner from 1st April to date, 121 days at 2 dollars.
\$242 E. D. AUSTIN.

Charleston, Feb. 2nd, 1850.

Mr. S. M. Fox,	To Joseph Walker	Dr.
$\frac{1}{2}$ Rm. Cap. P. & S. s. fine Blue Ruled 4 50,		2 25
$\frac{1}{2}$ " Letter " " " "		2 25
1 Doz. Jackson Pencils,	H	1 25
1 " " "	H H	1 25
1 " " "	H H H	1 50
1 " Red Pencils,		1 00
200 Envelopes,		80
Jan. 3rd 12 Level Books, hf' b'd and ruled to pattern,		6 00

12 Compass " " " " "	6 00
----------------------	------

\$22 30

Mr. S. Moylan Fox,
Wilmington, N. C.,

Dear Sir:

Above please find bill as per orders which will be sent you by to-morrow's boat, which I hope will arrive safe, and satisfactory.

Yours truly,

JOSEPH WALKER,
pr. H. C. COVERT.

New York, March 6th, 1850.

Dear Sir:

I have sent by express this day the articles as per bill—directed as instructed.

I have three Levels on hand; one at \$120, one \$90, and one at \$60—the last is not fit for good work. The first is of the best description.

I have one of Young's Transits, but not the best, price \$80—it has been used.

I could get some ready for you, if not wanted very soon.

Yours very respectfully,

JAMES GREEN.

To Major S. M. Fox.

175 Broadway, N. Y.
422 " after 1st May.

S. M. Fox,
To one Sliding Rod and Target,
" one Brass Plumb Bobb,
" two Packing Boxes,

To James Green	Dr.
	\$16 00
	1 25
	75

\$18 00

New York, March 6th, 1850.

7th Oct., 1850. I, J. E. Robinson, do certify that I sold one waggon and harness belonging to the State of North Carolina, that was used by the Engineer of the Western Turnpike, at Public Auction, in the town of Newton, for the sum of forty-six dollars.

Witness,

J. E. ROBINSON.

North Carolina.

I, D. F. Caldwell, one of the Judges of the Superior Courts of Law, in and for said State, hereby certify that S. M. Fox, the Engineer appointed to survey &c. the Turnpike Road from Salisbury west to the line of the State of Georgia, was duly sworn before me, according to the act of Assembly passed in relation to said Road. August 2d, 1849.

D. F. CALDWELL, Judge, &c.

[SENATE Doc. 73.]

REPORT

ON THE

BILL TO ENLARGE THE POWERS

OF THE

COMMISSIONERS OF THE TOWN OF WILMINGTON,

WITH A

MEMORIAL.

RALEIGH:

Thos. J. Lemay, Printer to the State:

1850.

50

[Dec. 6. Bill introduced by Mr. NIXON. Passed first reading, and referred to committee on Internal Improvements and ordered to be printed.]

[Dec. 9, Reported from Committee, and passed second reading,]

REPORT.

The Committee on Internal Improvements, to whom was referred "A Bill to enlarge the powers of the town of Wilmington, have had the same under consideration, and have instructed me to report the same back to the Senate without amendment, and recommend its passage.

WM. H. THOMAS,

Chairman.

Dec. 9, 1850.

A BILL

To enlarge the powers of the Commissioners of the town of Wilmington.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall and may be lawful for the Commissioners of the town of Wilmington, and they are hereby authorised and empowered to subscribe for one thousand shares of the Capital Stock of the Wilmington and Manchester Rail Road Company, to be held by the Commissioners of the town of Wilmington for the use and benefit of said town.

II. *Be it further enacted,* That to enable to Commissioners of the town of Wilmington to meet the payments which may be required by the Wilmington and Manchester Rail Road Company, on the Stock subscribed for by virtue of the first section of this act, the Commissioners of the town of Wilmington are hereby authorised and empowered, from time to time, or at such time or times as to them shall seem fit, to make, execute and deliver their bonds, for the payment of such sums of money as they may think proper, in the aggregate not exceeding one hundred thousand dollars, which said bonds shall be signed by the Magistrate of Police of the town of Wilmington, and sealed with the corporate seal of the Commissioners aforesaid.

III. *Be it further enacted,* That the bonds so as aforesaid to be executed shall be payable not less than ten years nor more than twenty from the time of their respective dates, shall severally be for sums not less than five hundred dollars, nor more than ten thousand dollars, shall bear an interest not exceeding six per centum per annum, and the interest stipulated to be paid in said bonds respectively shall be payable annually.

IV. *Be it further enacted,* That the holders or owners of the bonds issued by virtue of this act, or of any one or more of such bonds, shall not be required to include the interest accruing on the same in their lists of taxable property, and such bonds and the interest accruing or received thereon shall not be subject to any tax whatever.

V. *Be it further enacted,* That to provide for the payment of the bonds issued by virtue of the provisions of this act, and to provide for the payment of the interest accruing on the same, it shall be lawful for the Commissioners of the town of Wilmington, and they are hereby authorised, empowered and required, from year to year, and every year, to assess, levy and

7 collect, on and from the real estate, the white and black polls,
 8 and other subjects of taxation within the limits of the town of
 9 Wilmington as such limits are defined by an act of the General
 10 Assembly of this State ratified on the 29th day of January,
 11 1849, entitled "An Act to extend the limits of the town of
 12 Wilmington and for other purposes," such an amount of taxes,
 13 in addition to the amount required for other purposes, as shall
 14 be necessary to pay and discharge the interest annually accru-
 15 ing on such bonds issued as aforesaid; and also to raise a
 16 sinking fund sufficient to pay and discharge said bonds when-
 17 ever the same shall respectively become due and payable.

VI. *Be it further enacted*, That the shares of the Capital
 2 Stock of the Wilmington and Manchester Rail Road Company,
 3 which may by virtue of the provisions of this Act, be subscrib-
 4 ed for by the commissioners of the town of Wilmington, shall
 5 be held by said Commissioners as a security for the payment
 6 of the bonds to be issued by virtue of the previous provisions
 7 of this Act, and the interest accruing on the same; and all
 8 such dividends, or profits as may accrue on the Stock aforesaid
 9 shall be in the first place applied to the payment of the inter-
 10 est accruing on the bonds issued as aforesaid, and the residue
 11 remaining after the payment of such interest shall be applied to
 12 and make a part of the sinking fund for the payment and dis-
 13 charge of the principal money due on said bonds.

VII. *Be it further enacted*, That the Commissioners of the
 2 town of Wilmington are hereby authorised and empowered to
 3 adopt all such rules and regulations as shall be necessary, to
 4 carry into effect the provisions of this Act.

VIII. *Be it further enacted*, That this act shall be in force
 2 from and after its ratification.

MEMORIAL.

[Dec. 4. Read and referred to Committee on Internal Improvements.]

MEMORIAL
FROM
THE COMMISSIONERS
OF
WILMINGTON.

To the Honorable the Senate and House of Commons of the State of North Carolina:

The memorial of the Board of Commissioners for the town of Wilmington, respectfully sheweth unto your Honorable Bodies,

That being deeply impressed with the advantages to their Town resulting from the construction of the Wilmington and Manchester Rail Road now in progress, the citizens of the Town have come forward and subscribed to the full extent of their present individual means, and are desirous of getting a subscription on the part of the Corporation, to be paid for in the Bonds of the Town, redeemable in fifteen or twenty years, by which time they confidently believe that the increased business and wealth, arising from the operations of the Road, would more than refund them in any reasonable amount which might be subscribed by the Town to the Capital Stock of the Company. That preliminary arrangements have already been made with the said Company, by which the Company have agreed to give them certificates for one thousand shares of Stock, and pay the Interest on the Bonds of the Town for the first five years, and longer at our option, for an authorised subscription on the part of the Town of \$100,000, and the issuing of the Bonds of the corporation for that sum bearing 6 per cent interest, redeemable in 15 or 20 years. That the sense of the people has been more than once taken on the subject, and that an overwhelming majority are in favor of subscription, and for an application to your Honorable Bodies for authority to authorise the same.

Your memorialists, prompted by the general wishes of the citizens so signally expressed, therefore pray your Honorable Bodies to pass an act so amending the Charter of the Town, and enlarging the powers of the Commissioners, as to authorise them to sub-

scribe the sum of \$100,000 to the Capital Stock of the Wilmington and Manchester Rail Road Company, and to raise the same by taxation or otherwise as the constituted authorities of the Town may decide upon.

JAS. T. MILLER,
JOHN DAWSON,
THOS. D. MEARES,
JOSHA. G. WRIGHT,
W. C. HOWARD,
GEO. W. DAVIS.

Commissioners of the Town of
Wilmington,

A B I L L

TO

INCORPORATE

THE

BEAUFORT AND NORTH CAROLINA

RAIL ROAD COMPANY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[REVERSE SIDE 12]

Dec. 11, 1850.

[Introduced by Mr. ARENDELL. Passed first reading and referred to Committee on Internal Improvement and ordered to be printed.]

1850

61

A BILL

To incorporate the Beaufort and North Carolina Rail Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same,* That for the purpose of effecting a Rail Road communication between the waters of Beaufort Harbour, in the County of Carteret, and the North Carolina Rail Road at its junction with the Wilmington and Raleigh Rail Road, in the County of Wayne, the formation of a corporate company, with a capital stock of dollars, is hereby authorised, to be called the Beaufort and North Carolina Rail Road Company; and when formed in compliance with the conditions herein after prescribed, to have a corporate existence as a body politic in perpetuity.

II. That the said Company be, and the same is hereby authorised to construct a Rail Road from the waters of Beaufort Harbour to the North Carolina Rail Road at its junction with the Wilmington and Raleigh Rail Road.

III. That for the purpose of creating the capital stock of said Company, the following persons be, and they are hereby appointed Commissioners, viz:

whose duty it shall be to direct the opening of books for subscription of stock, at such times and places, and under the direction of such persons as they or a majority of them may deem proper; and the said commissioners shall have power to appoint a chairman of their body, Treasurer and all other officers, and to sue for and recover all sums of money that ought under this act to be received by them.

IV. That all persons who may hereafter be authorized to open books for subscription of stock by the commissioners herein appointed for that purpose, shall open said books at any time after the ratification of this act, twenty days previous notice being given in some one or more public newspaper or papers in this State; and that said books when opened shall be kept open for the space of thirty days at least and as long thereafter as the Commissioners first above mentioned shall direct; that all subscriptions of stock shall be in shares of

11 each, the subscribers paying at the time of making such
 12 subscription five dollars on each share thus subscribed to the
 13 person or persons authorised to receive such subscription,
 14 and in case of failure to pay such sum all such sub-
 15 scriptions shall be void and of no effect; and upon clos-
 16 ing the books all such sums as shall have been thus received
 17 of subscribers on the first cash instalment, shall be paid
 18 over to the general commissioners named in the third
 19 section of this act by the persons receiving them, and for
 20 failure thereof such person or persons shall be personally
 21 liable to said general commissioners, before the organiza-
 22 tion of said company and the company itself after its or-
 23 ganization, to be recovered in the superior court
 24 of law within this State, in the county where such delin-
 25 quent resides or if he resides in any other State, then
 26 in any court in such State having competent jurisdic-
 27 tion. The said general commissioners shall have power
 28 to call and require all persons empowered to receive sub-
 29 scriptions of stock at any time and from time to time as
 30 a majority of them may think proper, to make a return
 31 of the stock by them respectively and to make payment
 32 of all sums of money made by the subscribers. That all
 33 persons receiving subscription of stock shall pass re-
 34 ceipts to the subscribers for the payment of the first in-
 35 stalment, as heretofore required to be paid; and upon
 36 their settlement with the general Commissioners, as a-
 37 foresaid, it shall be the duty of the said general commission-
 38 ers in like manner to pass their receipt for all sums thus
 39 received to the persons from whom received, and such re-
 40 ceipts shall be taken and held to be good and sufficient
 41 vouchers to the persons holding them, that subscriptions
 42 of stock thus received to an amount not exceeding
 43

V. It shall be the duty of said general commissioners to
 2 direct and authorize the keeping open of books for the
 3 subscription of stock in the manner above described un-
 4 til the sum of
 5 dollars shall have been subscribed to the capital stock of
 6 said company; and as soon as the sum of
 7 dollars shall have been subscribed and the first instalment of
 8 five dollars per share on said sum shall have been receiv-
 9 ed by the general commissioners, said company shall be
 10 regarded as formed; and the said commissioners, or a
 11 majority of them, shall sign and seal a duplicate
 12 declaration to that effect, with the names of the said
 13 subscribers appended, and cause one of said duplicates to
 14 be deposited in the office of the Secretary of State; and

15 thenceforth from the closing of the books of subscription
 16 as aforesaid, the said subscribers to the stock shall
 17 form one body politic and corporate, indeed and in law,
 18 for the purposes aforesaid, by the name and style of the
 19 [Beaufort and North Carolina Rail Road Company.]

VI. That whenever the sum of
 2 dollars shall be subscribed in manner and form aforesaid,
 3 the subscribers, their Executors, Administrators and as-
 4 signs, shall be, and they are hereby declared to be incorpo-
 5 rated into a company, by the name and style of the
 6 "Beaufort and North Carolina Rail Road company ;"
 7 and by that name shall be capable in law and in equity
 8 of purchasing, holding, selling, leasing, and conveying,
 9 estates real, personal and mixed, and acquiring the same
 10 by gift or devise, so far as shall be necessary for the pur-
 11 poses within the scope, object and interest of their char-
 12 ter, and no further ; and shall have perpetual succession,
 13 and by their corporate name may sue and be sued, plead
 14 and be impleaded, in any Court of law and equity in the
 15 State of North Carolina; and may have and use a com-
 16 mon seal, which they may alter and renew at pleasure,
 17 and shall have and enjoy all other rights and immunities
 18 which other corporate bodies may and of right do exer-
 19 cise ; and may make all such by-laws, rules and regula-
 20 tions, as are necessary for the government of the corpo-
 21 ration, or effecting the object for which it is created, not
 22 inconsistent with the constitution and laws of the United
 23 States and of the State of North Carolina.

VII. That notice of process upon the principal agents of
 2 said company, or the president or any of the directors
 3 thereof, shall be deemed and be taken to be due and law-
 4 ful notice of service of process upon the company so as
 5 to bring it before any court within the State of North
 6 Carolina.

VIII. As soon as the sum of
 2 dollars shall have been subscribed, in manner afore-
 3 said, it shall be the duty of the general commissioners
 4 appointed under the third section of this act, to appoint
 5 a time for the stockholders to meet
 6 , which they shall cause
 7 to be previously published for the space of thirty days, in
 8 one or more newspapers, as they may deem proper ; at
 9 which time and place the said stockholders, in person or
 10 proxy, shall proceed to elect the directors of the compa-
 11 ny, and to enact such regulations and by laws, as may be
 12 necessary for the government of the corporation and the
 13 transaction of its business. The persons elected directors

14 at this meeting shall serve such period not exceeding
 15 one year, as the stockholders may direct, and at this
 16 meeting, the stockholders shall fix on the day and place
 17 or places where the subsequent election of directors shall
 18 be held; and such elections shall henceforth be annually
 19 made, but if the day of the annual election should pass with-
 20 out any election of directors, the corporation shall not be
 21 thereby dissolved, but it shall be lawful on any other day to
 22 hold and make such election in such manner as may be
 23 prescribed by a by-law of the corporation.

IX. That the affairs of the company shall be managed
 2 and directed by a general board to consist of twelve di-
 3 rectors to be elected by the stockholders from among their
 4 number at their first and subsequent general annual meet-
 5 ings as prescribed in section 8th of this act.

X. That the election of directors shall be by ballot, each
 2 stockholder having as many votes as he has shares in the
 3 stock of said company, and the person having a majority
 4 of all the votes polled shall be considered as duly elect-
 5 ed.

XI. That the president of the company shall be elected
 2 by the directors from among their number, in such a man-
 3 ner as the regulations of the company shall prescribe.

XII. That at the first general meeting of the stockholders,
 2 directed to be called under section 8th of this act, a major-
 3 ity of all the shares subscribed shall be represented be-
 4 fore proceeding to business; and if a sufficient number do
 5 not appear on the day appointed, those who do attend
 6 shall have power to adjourn from time to time until a re-
 7 gular meeting shall be thus formed; and at such meet-
 8 ing the stockholders may provide by a by-law as to the
 9 number of stockholders and the amount of stock to be
 10 held by them, which shall constitute a quorum for the
 11 transacting business at all subsequent regular or occasion-
 12 al meetings of stockholders and directors.

XIII. That at all elections and upon all votes taken in
 2 any general meeting of the stockholders, upon any by-
 3 law or any of the affairs of said company, each share of
 4 stock shall be entitled to one vote, and that any stock-
 5 holder in said company may vote by proxy and proxies
 6 may be verified in such a manner as the stockholders by
 7 by-laws may prescribe.

XIV. That the general commissioners shall make their re-
 2 turn of the shares of stock subscribed for at the first gen-
 3 eral meeting of stockholders, and pay over to the direc-
 4 tors elected at said meeting, or their authorized agent,

5 all sums of money received from subscribers, and for fail-
 6 ure thereof, shall be personally liable to said company,
 7 to be recovered at the suit of said company, in any of the
 8 superior courts of law in this State within the County
 9 where such delinquent or delinquents may reside, and in
 10 like manner from said delinquent's executors or adminis-
 11 trators, in case of his or their death.

XV. That the board of directors may fill all vacancies which
 2 may occur in it during the period for which they have
 3 been elected, and in the absence of the president, may fill
 4 his place by electing a president *pro tempore* from among
 5 their number.

XVI. That all contracts or agreements, authenticated by
 2 the President and Secretary of the board of directors,
 3 shall be binding on the company without a seal, or such a
 4 mode of authentication may be used as the company by
 5 their by-laws may adopt.

XVII. That the company shall have power and may proceed
 2 to construct as speedily as possible, a rail road, with one
 3 or more tracks, to be used with steam power, which shall
 4 extend from the waters of Beaufort Harbour to the North
 5 Carolina Rail Road, at its junction with the Wilmington
 6 and Raleigh Rail Road, in the county of Wayne: Said
 7 company may use any part of the Rail Road construct-
 8 ed by them before the whole of said road shall be com-
 9 pleted.

XVIII. That the said company shall have the exclusive
 2 right of conveyance or transportation of persons, goods,
 3 merchandise and produce over the said rail road, to be
 4 by them constructed, at such charges as may be fixed on
 5 by a majority of the Directors.

XIX. That the said company may, when they see fit,
 2 farm out their right of transportation over said Rail Road,
 3 subject to the rules above mentioned; and said company
 4 and every person who may have received from them the
 5 right of transportation of goods, wares, produce and mer-
 6 chandise entrusted to them for transportation ———

XX. That the board of directors may call for the payment
 2 of the sums subscribed as stock in said company in
 3 such instalments as the interest of said company may in
 4 their opinion require: the call of each payment shall be
 5 published in one or more newspapers in this State for the
 6 space of one month before the day of payment: and on
 7 failure of any stockholder to pay each instalment as thus
 8 required, the directors may sell at public auction, on a pre-
 9 vious notice of ten days, for cash, all the stock subscrib-

10 ed for in said company, by such stockholder, and convey
11 the same to the purchaser at said sale: and if said sale
12 of stock does not produce a sum sufficient to pay off the
13 incidental expenses of the sale, and the entire amount
14 owing by such stockholder to the company for such
15 subscription of stock, then and in that case the whole
16 of such balance shall be held and taken as due at once to
17 the company, and may be recovered of such stockholder or
18 his executors, administrators or assigns, at the suit of said
19 company, either by summary motion in any court of su-
20 perior jurisdiction in the county where the delinquent re-
21 sides, on a previous notice of ten days to said subscriber,
22 or by the action of assumpsit in any court of competent jur-
23 isdiction, or by a warrant before a justice of the peace
24 where the sum does not exceed one hundred dollars; and
25 in all cases of assignment of stock, before the whole a-
26 mount has been paid to the company, then for all sums
27 due on such stock, both the original subscribers and the
28 first and all subsequent assignees shall be liable to
29 the company, and the same may be recovered as above
30 described.

XXI. That the debt of stockholders, due to the company
2 for stock therein, either as original proprietor or as
3 first or subsequent assignee shall be considered as of e-
4 qual dignity with judgments in the distribution of assets
5 of a deceased stockholder, by his legal representatives.

XXII. That said company shall issue certificates of stock to its members, and said stock may be transferred in such manner and form as may be directed by the by-laws of the company.

XXIII. That the said company may at any time, increase its capital to a sum sufficient to complete said Road not exceeding _____ dollars, either by opening books for new stock, or by selling such new stock, or by borrowing money on the credit of the company, and on the mortgage of its charter and works; and the manner in which the same shall be done, in either cases shall be prescribed by the stockholders at a general meeting.

XXIV. That the board of directors once in every year, at 2 least, make a full report of the state of the com- 3 pany, and its affairs, to a meeting of the stockhold- 4 ers, and oftener, if required by a by-law, and shall 5 have power to call a general meeting of the stockhold- 6 ers, when the board may deem it expedient; and the 7 company may provide, in their by-laws, for occasional 8 meetings being called and pre- scribe the mode thereof.

XXV. That the said company may purchase, have and hold, in fee, or for a term of years, any land, tenements, or hereditaments, which may be necessary for the said Road, or the appurtenances thereof, or for the erection of of depositories, store houses, houses for the officers, servants or agents of the company, or for work shops or foundaries, to be used for the said company, or for procuring stone or other materials necessary to the construction of the Road, or for effecting transportation thereon, and for no other purpose whatever.

XXVI. That the company shall have the right when necessary to conduct the said Road across or along any public Road or water course: *Provided*, That the said company shall not obstruct any public road, without constructing another equally as good and as convenient, nor without making a draw in any bridge of said road which may cross a navigable stream, sufficient for the passage of vessels navigating such stream.

XXVII. That when any lands or right of way may be required by said company for the purpose of constructing their road, and for want of agreement as to the value thereof, or from any other cause, the same cannot be purchased from the owner or owners, the same may be taken at a valuation to be made by five commissioners, or a majority of them, to be appointed by any court of record, having common law jurisdiction in the County where some part of the land or right of way is situated. In making the said valuation, the said commissioners shall take into consideration the loss or damage which may accrue to the owner or owners in consequence of the land or the right of way being surrendered, and the benefit and damages, he, she or they may receive from the erection or establishment of the rail road or work, and shall state particularly the value and amount of each; and the excess of loss and damage, over and above the advantage and benefit, shall form the measure of valuation of the said land or right of way: *Provided*, nevertheless, that if any person or persons over whose land the road may pass shall be dissatisfied with the valuation of said commissioners, then and in that case, the person or persons so dissatisfied may have an appeal to the Superior Court, in the County where the said valuation has been made, or in either county in which the land lies, when it may lie in more than one county, under the same rules, regulations and restrictions as in appeals from judgments of justices of the peace. The pro-

29 ceedings of the said commissioners, accompanied with a
 30 full description of the said land or right of way, shall
 31 be returned under the hands and seals of a majority of the
 32 commissioners, to the court from which the commission
 33 issued, there to remain a matter of record. And the lands
 34 or right of way so valued to the said commissioners, shall
 35 vest in the said company so long as the same shall be
 36 used for the purposes of said rail road, so soon as
 37 the valuation may be paid, or when refused, and may
 38 have been tendered: *Provided*, That on application for
 39 the appointment of commissioners, under this section it
 40 shall be made to appear to the satisfaction of the court
 41 that at least ten days previous notice has been given by
 42 the applicant to the owner or owners of land so proposed
 43 to be condemned, or if the owner or owners be infants or
 44 non compos mentis, then to the guardian of such owners if
 45 such guardian can be found within the county, or if he
 46 cannot be so found, then such appointment shall not be
 47 made unless notice of the application shall have been
 48 published, at least one month next preceding, in some
 49 newspaper printed as convenient as may be to the court
 50 house of the county and shall have been posted at the door
 51 of the court house on the first day of the term of said
 52 court, to which the application is made: *Provided further*,
 53 That the valuation provided for in this section shall be
 54 made on oath by the commissioners aforesaid, which
 55 oath, any justice of the peace, or clerk of the court of the
 56 county in which the land or a part of it lies, is hereby
 57 authorized to administer: *Provided further*, That the
 58 right of condemnation herein granted shall not authorize
 59 the said company to invade the dwelling house, yard,
 60 garden or burial ground of any individual, without his
 61 or her consent.

XXVIII. That the right of said company to condemn
 2 lands in the manner described in the 27th section of this
 3 act, shall extend to the condemning one hundred feet on
 4 each side of the main track of said road, measuring from
 5 the centre of the same, unless in case of deep cuts and fill-
 6 ings when said company shall have power to condemn as
 7 much in addition thereto as may be necessary for the pur-
 8 pose of constructing said road, and the company shall al-
 9 so have power to condemn and appropriate lands in like
 10 manner, for the constructing and building of depots, shops,
 11 ware-houses, buildings for servants, agents and persons
 12 employed on the road, not exceeding two acres in any one
 13 lot or station.

XXIX. That in the absence of any contract or contracts

2 with said company, in relation to lands through which the
 3 said road or its branches may pass, signed by the owner
 4 thereof or by his agent, or any claimant or person in pos-
 5 session thereof, which may be confirmed by the owner
 6 thereof, it shall be presumed that the land upon which the
 7 said road or any of its branches may be constructed, to-
 8 gether with a space of one hundred feet on each side of
 9 the centre of said road, has been granted to the said com-
 10 pany, shall have good right and title thereto, and shall
 11 have, hold and enjoy the same as long as the same be
 12 used for the purposes of said road and no longer, unless
 13 the person or persons owning the said land at the time that
 14 part of the said road which may be on the said land, was
 15 finished, or those claiming under him, her or them shall
 16 apply for an assessment of the value of the said lands, as
 17 herein before directed, within two years next af-
 18 ter that part of said road which may be on the
 19 said land, was finished; and in case the said own-
 20 er or or owners, or those claiming under him, her or
 21 them shall not apply within two years next after the
 22 said part was finished, he, she or they shall be forever bar-
 23 red from recovering said land or having any assessment
 24 or compensation thereof: *Provided*, nothing herein con-
 25 tained shall affect the rights of feme covert or infants,
 26 until two years after the removal of their respective dis-
 27 abilities.

XXX. That all lands not heretofore granted to any per-
 2 son nor appropriated by law to the use of the State, with-
 3 in one hundred feet of the centre of said road, which
 4 may be constructed by the said company, shall vest in
 5 the company as soon as the line of the road is definitely
 6 laid out through it, and any grant of said land thereafter
 7 shall be void.

XXXI. That if any person or persons shall intrude upon
 2 said rail road by any manner of use thereof or of the
 3 rights or privileges connected therewith, without the per-
 4 mission or contrary to the will of said company, he, she or
 5 they may be indicted for misdemeanor, and upon convic-
 6 tion, fined and imprisoned by any court of competent ju-
 7 risdiction.

XXXII. That if any person shall wilfully and malici-
 2 ously or in any manner hurt or damage or obstruct, or
 3 shall wilfully or maliciously aid or assist, counsel or ad-
 4 vise any other person or persons to destroy or in any
 5 manner to hurt, damage or destroy, injure or obstruct the
 6 said rail road, or any bridge or vehicle used for or in
 7 the transportation thereon, any water-tank, ware house, or

9 and they are hereby authorized and required, on behalf
 10 the State, to subscribe for stock in said company to the a-
 11 mount
 12 dollars to the capital stock of said company ; and the
 13 subscription shall be paid in the following manner, to
 14 wit: The one fourth part as soon as the said company
 15 shall commence work, and one fourth thereof every six
 16 months thereafter until the whole subscription in behalf
 17 of the State shall be paid : *Provided*, The Treasurer and
 18 President of said company shall, before they receive the a-
 19 aforesaid instalments, satisfactorily assure the Board of In-
 20 ternal Improvements, by their certificates under the seal of
 21 said company, that an amount of the private subscription
 22 has been paid in equal proportion to the stock subscribed
 23 by the State

XXXVII. That if in case the present Legislature shall
 2 not provide the necessary and ample means to pay the a-
 3 foresaid instalments on the stock subscribed for on be-
 4 half of the State, as provided for in the 36th section of
 5 this act; and in that event, the Board of Internal Improve-
 6 ment aforesaid shall, and they are hereby authorized and
 7 empowered to borrow, on the credit of the State, not ex-
 8 ceeding
 9 dollars, as the same may be needed by the requirements
 10 of this act.

XXXVIII. That if in case it shall become necessary
 2 to borrow the money by this act authorized, the Public
 3 Treasurer shall issue the necessary certificates, signed
 4 by himself and countersigned by the Comptroller,
 5 in sums not less than one thousand dollars each, pledg-
 6 ing the State for the payment of the sum therein
 7 mentioned, with interest thereon at the rate of interest
 8 not exceeding six per cent. per annum, payable semi-an-
 9 nually, at such times and places as the Treasurer may
 10 appoint, the principal of which certificates shall be re-
 11 deemable at the end of thirty years from the time the
 12 same are issued : but no greater amounts of such certifi-
 13 cates shall be issued at any one time than may be sufficient
 14 to meet the instalment required to be paid by the State at
 15 that time.

XXXIX. *Be it further enacted*, That the Comptroller
 2 shall register the said certificates at large in a book to be by
 3 him kept for that purpose, at the time he countersigns
 4 the same; and when he delivers the same to the Public
 5 Treasurer, he shall charge him in his books with the a-
 6 mount thereof, and also with all such sums, if any, as
 7 the public Treasurer may obtain by way of premium

8 on the sale of the said certificates, an account of
9 which the Public Treasurer shall render to the Com-
10 troller, so soon as negotiations from time to time
11 for the sale of said certificates are closed.

XL. *Be it further enacted*, That if it shall become neces-
2 sary to issue the certificates aforesaid, the Public Treas-
3 urer shall advertise in one or more newspapers as he may
4 think best, and invite sealed proposals for such amount of
5 the aforesaid sum of
6 dollars, as may be wanted at any one time; and it shall be
7 his duty to accept those terms which may be most advan-
8 tageous to the State: *Provided*, That in no event shall
9 any of the said certificates be sold for less than their par
10 value: and any premium which may be obtained on
11 the sale of said certificates shall be placed in the public
12 treasury, and used as other public funds in the payment
13 of interest on the debt hereby created.

XLI. *Be it further enacted*, That as security for the
2 redemption of said certificates of debt, the public faith
3 of the State of North Carolina is hereby pledged to the
4 holders thereof, and in addition thereto all the stock held
5 by the State in the North Carolina Railroad Company
6 hereby created shall be and the same is hereby pledged for
7 that purpose; and any dividends of profit which may from
8 time to time be declared on the stock held by the State as
9 aforesaid shall be applied to the payment of the interest
10 accruing on said certificates; but until such dividend of
11 profit may be declared, it shall be the duty of the Treas-
12 urer, and he is hereby authorized and directed, to pay all
13 such interest, as the same may accrue, out of any moneys
14 in the Treasury not otherwise appropriated.

XLII. *Be it further enacted*, That the certificates of
2 debt hereby authorized to be issued, shall be transferable
3 by the holders thereof, their agents or attorneys, properly
4 constituted, in a book to be kept by the Public Treasurer
5 for that purpose; and in every instance where a transfer is
6 made, the out-standing certificate shall be surrendered and
7 given up to the Public Treasurer, and by him cancelled,
8 and a new one, for the same amount, issued in its place
9 to the person to whom the same is transferred.

XLIII. That the State shall appoint the number of di-
2 rectors in said company in proportion to the stock sub-
3 scribed, who shall be appointed by the Governor, by and
4 with the advice and consent of his Council, and removed
5 in like manner.

XLIV. That the following officers and servants and per-

2 sons in the actual employment of the said company, be,
 3 and they are hereby exempted from jury and ordinary
 4 military duty: The president and treasurer of the board
 5 of directors, and chief and assistant engineers, the seere-
 6 taries and accountants of the company, keepers of the de-
 7 positories, guards stationed on the road to protect it from
 8 injury, and such persons as may be working the locomo-
 9 tive engines and travelling with cars for the purpose of
 10 attending to the transporting of produce, goods and pas-
 11 sengers on said road.

XLV. *Be it further enacted*, That all the works hereby
 2 required of the Beaufort and North Carolina Rail Road
 3 Company shall be executed with due diligence, and if
 4 they be not commenced within three years after the rati-
 5 fication of this act, and finished within ten years after the
 6 period of their commencement, this charter shall be forfeit-
 7 ed.

[HOUSE Doc. 75.]

A BILL

TO

IMPROVE THE DEEP AND YADKIN RIVERS,

AND CONNECT

THE SAME BY RAIL ROAD,

RALEIGH :

Thos. J. Lemay, Printer to the State.
1850.

HOUSE COMMONS, December 17, 1850.

[Introduced by Mr. J. M. LEACH.

[Read first time, laid on the table and ordered to be printed.]

AN ACT

To improve the Deep River and the Yadkin River, and to connect the two Rivers by means of a Portage Rail Road.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be lawful to open books in the town of Wilmington, under the direction of A. J. Dewsette, John McRae, Miles Costin, P. R. Dickinson, O. G. Parsley, or any three of them; at Fayetteville, under the direction of James C. Dobbin, John D. Williams, McKethen, T. N. Cameron, or any three of them; at Pittsboro', under the direction of John Haughton, Spence McClenahan, Isaac Clegg, M. Q. Waddell, or any three of them; at Haywood, under the direction of R. R. Smith, Robert Faucett, William Crump, Elias Bryan, or any three of them; at Carthage, under the direction of Augus Kelly, Samuel J. Person, Dr. Bruce, Charles Chalmers, or any three of them; at Ashboro', under the direction of Jonathan Worth, William B. Lane, J. M. Drake, Alfred Marsh, or any three of them; at Hill's Store, under the direction of Samuel Hill, Aaron Hill, Robt. Gardner, Jesse Thornburg, Zebedee Rush, or any three of them; at Franklinville, under the direction of George Makepeace, H. B. Elliott,
or any three of them; at Jackson Hill Post Office in Davidson county, under the direction of Allen Newsome, Hiram Ward, Daniel Spence, Jere Adderton, Gray Wood, or any three of them; at Travis Daniel's, under the direction of T. Daniel, Jesse Holmes, William Harris, John Ward, or any

27 three of them; at Troy, under the direction of N. Knight,
 28 Wm. Lassiter, Peter Munroe, L. Simmons, Zebedec Rus-
 29 sell, or any three of them; at Lexington, under the direc-
 30 tion of J. M. Leach, W. R. Holt, Thales McDonald, J. R.
 31 Maberry, J. P. Stinson, M. Pinxtan or any three of them; at
 32 Salisbury, under the direction of A. H. Caldwell, O. G.
 33 Ford, ——— Barringer, T. F. Chambers, or any three of
 34 them; at Brinkley's Ferry, under the direction of ———
 35 Brinkley, Green Morgan, Buchnell Crowder, Wiley Bean,
 36 or any three of them; at Moxville, under the direction of
 37 J. A. Lillington, Braxton Baily, J. McElroy, A. G. Carter,
 38 or any three of them; at Huntsville, under the direction
 39 of N. C. Williams, Col. Puryear, Peter R. Hamton, Ste-
 40 phen Douthitt, G. A. Miller, or any three of them; at Sa-
 41 lem, under the direction of Tyre Glenn, F. Frees, John
 42 Vogler, J. Blackburn, T. J. Wilson, or any three of them;
 43 at Rockford, under the direction of Hon. R. M. Pearson,
 44 F. R. Armstrong, Mark York, George Bower, or any
 45 three of them; at Jonesville, under the direction of Col.
 46 Hickerson, ——— Gwynn,
 47 or any three of them; at Wilkes-
 48 boro', under the direction of Col. Pungh, J. B. Gordon,
 49 A. M. Foster, — Carmichael, Maj. Findlay, or any three of
 50 them; and at such other places and under the direction
 51 of such other persons, as any three of the Commissioners
 52 herein before named, to superintend the receiving of sub-
 53 scriptions, as the Commissioners at Ashborough shall di-
 54 rect, for the purpose of receiving subscriptions to an amount
 55 not exceeding eight hundred thousand dollars, in shares
 56 of one hundred dollars each, for the purpose of effecting a
 57 Steamboat navigation from Hancock's Mills in Moore
 58 County, to the mouth of Fork Creek in Randolph County,
 59 for constructing a Portage Rail Road from the mouth of
 60 Fork Creek to the Yadkin River near Jesse Holmes' Mill,
 61 and for the purpose of effecting a navigation for Steam-
 62 boats from Jesse Holmes' Mill to where the Central Rail

63 Road may cross the Yadkin River, and for providing every
64 thing necessary and convenient for the purpose of trans-
65 portation.

II. The time and places for receiving subscriptions shall
2 be advertised in one or more newspapers published in the
3 towns of Wilmington, Pittsborough, Salem and Ashbor-
4 ough, and the books for receiving the same shall not be
5 closed in less than thirty days; and if it shall appear that
6 more than 8000 shares of the capital stock aforesaid shall
7 have been subscribed for within the said thirty days, it
8 shall be the duty of the said commissioners at Ashbor-
9 ough, or any three of them, to reduce the number of shares
10 subscribed for among the subscribers in fair and equal pro-
11 portions, to the amount subscribed for respectively by each
12 until the whole amount of shares shall be reduced to eight
13 thousand; but if the whole amount shall not be subscribed
14 for within thirty days from the time the books shall have
15 been opened to receive subscriptions, then the books may
16 be closed or continued open, or closed and re-opened with-
17 out further notice, as a majority of the above named com-
18 missioners at Ashborough may judge to be most expedi-
19 ent, until the whole number of shares shall be subscribed
20 for.

III. When one thousand shares shall be subscribed for
2 in the manner aforesaid, the subscribers, their executors,
3 administrators or assigns, shall be and they are hereby
4 declared to be incorporated into a company by the name
5 and style of "The Great Western River and Rail Road
6 Transportation Company;" and by that name shall be ca-
7 pable in law of purchasing, holding, selling, leasing and
8 conveying estates, real, personal and mixed, so far as shall
9 be necessary for the purpose hereinafter mentioned, and
10 no further, and shall have perpetual succession, and by
11 said corporate name may sue and be sued, and may have and
12 use a common seal, which they shall have power to alter

13 or renew at their pleasure, and shall have and enjoy, and
14 may exercise all the powers, rights and privileges which
15 other corporate bodies may lawfully do, for the purpose
16 mentioned in this act, and may make all such by-laws,
17 rules and regulations, not inconsistent with the laws of
18 this State or of the United States, as shall be necessary
19 for the well ordering and conducting the affairs of the
20 company.

IV. Upon any subscription of stock as aforesaid, there
2 shall be paid at the time of subscribing, to the said com-
3 missioners or their agents appointed to receive such sub-
4 scriptions, the sum of two dollars on every share subscrib-
5 ed; and the residue thereof shall be paid in such instal-
6 ments and at such times, as may be required by the Presi-
7 dent and Directors of said company. The said commis-
8 sioners, or their agents, shall forthwith, after the first el-
9 ection of President and Directors of the Company, pay
10 over to the said President and Directors all monies re-
11 ceived by them; and on failure thereof, the said President
12 and Directors may recover the amount due from them, or
13 from any one or more of them, by motion on ten days pre-
14 vious notice, in the Court of Pleas and Quarter Sessions,
15 or the Superior Court of Law in any county wherein such
16 commissioner or commissioners, their executors or admin-
17 istrators, may reside, or by warrant before a Justice of said
18 county.

V. When five hundred shares or more of the stock shall
2 have been subscribed, public notice of that event shall be
3 given by three or more of the said commissioners at Ash-
4 boro', who shall have power at the same time to call a
5 general meeting of the subscribers at such convenient
6 place and time as they shall name in said notice. (To
7 constitute any such meeting, a number of persons entitled
8 to a majority of all the votes which could be given upon
9 all shares subscribed, shall be present either in person or
10 by proxy; and if a sufficient number to constitute a meeting

11 do not attend on that day, those who do attend shall have
 12 power to adjourn from time to time, until a meeting shall
 13 be formed.)

VI. The subscribers, at their general meeting before
 2 directed, and the proprietors of stock at any annual meet-
 3 ing thereafter, shall elect a President and five Directors,
 4 who shall continue in office, unless sooner removed, until
 5 the next annual meeting after their election and until their
 6 successors shall be elected; but the President or any of
 7 the Directors may at any time be removed, and the vacan-
 8 cy thereby occasioned, be filled by a majority of the votes
 9 given at any general meeting. The President, with any
 10 two or more of the Directors, who shall appoint one of
 11 their own body President Pro tempore, shall constitute a
 12 board for the transaction of business. In case of vacancy
 13 in the office of President or any director, happening from
 14 death, resignation, removal or disability, such vacancy
 15 may be supplied by appointment of the board until the
 16 next annual meeting.

VII. The President and Directors of said company shall
 2 be, and they are hereby invested with all the rights and
 3 powers necessary for the construction and repair, with as
 4 many locks and dams as they or a majority of them may
 5 deem necessary, and also, for the construction and repair
 6 of a Portage Rail Road, and also, to make and continue
 7 all works whatever, which may be necessary and expedi-
 8 ent, in order to the proper completion of the work.

VIII. The said President and Directors shall have pow-
 2 er to make contracts with any person or persons, on behalf
 3 of the company, for constructing said work and perform-
 4 ing all other works respecting the same, which they shall
 5 judge necessary and proper; and to receive from the sub-
 6 scribers, from time to time, such advances of money on
 7 their respective shares as the wants of the company may
 8 demand, until the whole of their subscriptions shall be ad-

9 vanced ; to call on any emergency a general meeting of
 10 the subscribers, giving one month's notice thereof in one of
 11 the newspapers printed in Raleigh. To appoint a treas-
 12 urer, clerk, and such other officers as they may require,
 13 and to transact all the business of the company during the
 14 intervals between the general meetings of the stockhold-
 15 ers.

IX. *Be it further enacted*, That the stockholders in said
 2 company, shall be allowed to pay any part or the whole
 3 of their subscriptions either in cash, or in work, at cash val-
 4 ue, to be estimated by the chief engineer, and approved
 5 of by the President and Board of Directors.

X. If any stockholder shall fail to pay the sum required
 2 of him by the President and Directors, or a majority of
 3 them, within one month after the same shall have been
 4 advertised in one of the newspapers published in the town
 5 of Raleigh, it shall and may be lawful for the President
 6 and Directors, or a majority of them, to sell at public
 7 auction, and to convey to the purchaser, the share or
 8 shares of such stockholder so failing or refusing, giving
 9 one month's previous notice of the time and place of sale
 10 in manner aforesaid ; and after retaining the sum due, and
 11 all charges of the sale out of the proceeds thereof, to pay
 12 the surplus over to the former owner or his legal repre-
 13 sentative ; and if the said sale shall not produce the sum
 14 required to be advanced, with the incidental charges at-
 15 tending the same, then the President and Directors may
 16 recover the balance of the original proprietor, or his as-
 17 signee, or the executor, or administrator, or either of them,
 18 by suit in any Court of record having jurisdiction thereof,
 19 or by warrant before a justice of the county of which he
 20 is a resident, and any purchaser of the stock of the com-
 21 pany under the sale by the President Directors, shall be
 22 subject to the same rules and regulations as the original
 23 proprietors.

XI. *Be it further enacted*, That the said President and
 2 Directors, their officers and servants, shall have full power
 3 and authority to enter upon all lands and tenements
 4 through which they may desire to conduct their works,
 5 and to lay out the same according to their pleasure, so
 6 that the mill house, yard or other buildings of no person be
 7 invaded without his consent; and they shall have power
 8 to enter upon and lay out such contiguous land, as they
 9 may desire to occupy, as sites for depots, toll houses, ware
 10 houses, work shops and other buildings for the necessary
 11 accommodation of their officers, agents and servants, their
 12 horses, mules and other cattle, and for the protection of
 13 the property entrusted to their care: *Provided*, that the
 14 land so laid out shall not exceed one and a half acres in
 15 any one parcel. If the President and Directors cannot
 16 agree with the owner or owners of the land so entered on
 17 and laid out by them, as to the terms of purchase, it shall
 18 be lawful for them to apply to the Court of Pleas and
 19 Quarter Sessions of the county in which such land or the
 20 greater part thereof may lie; and upon such application,
 21 the Court shall appoint five disinterested and impartial
 22 freeholders to assess the damages to the owners, from the
 23 condemnation of the land for the purpose aforesaid. No
 24 such appointment however, shall be made unless ten days
 25 previous notice of the application shall have been given
 26 to the owner of the land, or to the guardian, if the owner
 27 be an infant, or the committee, the owner being *non com-*
 28 *pos mentis*, if such owner, guardian or committee can be
 29 found within the county, or if he cannot be so found, then
 30 such appointment shall not be made unless notice of the
 31 application shall have been published at least one month
 32 next preceding, in some newspaper printed as convenient
 33 as may be to the Court House of the county and shall have
 34 been posted at the door of the Court House, on the first
 35 day at least of the next preceding term of the said Court.
 36 A day for the meeting of said freeholders, to perform the

37 duty assigned them, shall be designated in the order ap-
 38 pointing them, and any one or more of them attending on
 39 the day, may adjourn from time to time until their busi-
 40 ness shall be finished : Of the five freeholders so appoin-
 41 ted, any three or more of them may act, after having been
 42 duly sworn, or solemnly affirmed before some justice of
 43 the peace, that they will impartially and justly to the
 44 best of their ability ascertain the damages which will be
 45 sustained by the proprietor of the land from the condem-
 46 nation thereof for the use of the company, and that they
 47 will truly certify their proceedings thereupon to the Court
 48 of said county.

XII. It shall be the duty of said freeholders, in pursu-
 2 ance of the order appointing them, to assemble on the
 3 land proposed to be condemned, and after running the
 4 same and hearing such proper evidence as the party may
 5 offer, they shall ascertain, according to their best judgment,
 6 the damages which the proprietor of the land will sustain
 7 by the condemnation thereof for the use of the company.
 8 In performing this duty, they shall consider the proprie-
 9 tor of the land as being the owner of the whole fee simple
 10 interest therein, they shall take into consideration the
 11 quality and quantity of the land to be condemned, the
 12 additional fencing that will be required thereby, and all
 13 benefits as well as inconveniences which will result to the
 14 proprietor from the condemnation thereof.

XIII. When the said freeholders shall have agreed upon
 2 the amount of damages, they shall forthwith make a writ-
 3 ten report of their proceedings, under their hands and
 4 seals, in substance as follows : We ——— freeholders
 5 appointed by an order of the Court of Pleas and Quarter
 6 Sessions for the purpose of ascertaining the damages that
 7 will be sustained by ———, the proprietor of certain
 8 lands in the said county, which the President and Direc-
 9 tors of the "Great Western River and Rail Road Trans-

10 portation Line," propose to condemn for their use, do here-
 11 by certify that we met together on the land aforesaid,
 12 on the —— day of —— the day appointed therefor by
 13 the said order, (or the day to which we were regularly
 14 adjourned from the day appointed for our meeting by the
 15 said order) and that having been first duly sworn, and
 16 having visited the premises, we proceeded to estimate the
 17 quantity and quality of land aforesaid, the quantity of
 18 additional fencing which would probably be occasioned by
 19 the condemnation, and all benefits as well as inconveni-
 20 ces which seemed to us likely to result therefrom to the
 21 proprietor of the land. That under the influence of these
 22 considerations, we have estimated and do hereby assess
 23 the damages aforesaid at the sum of ——. Given under our
 24 hands and seals, this —— day of ——. At the foot
 25 of the report so made, the magistrate, before whom the
 26 said freeholders are sworn, shall make a certificate in sub-
 27 stance as follows: I, —— a justice of the peace of said
 28 county, do hereby certify that the above named freehol-
 29 ders, before they executed their duties as above certified,
 30 were solemnly sworn (or affirmed) before me, that they
 31 would impartially and justly, to the best of their ability,
 32 ascertain the damages which would be sustained by the
 33 above named ——, by the condemnation of the above
 34 named land for the use of the "Great Western Rail Road
 35 and River Transportation Company," and they would cer-
 36 tify truly their proceedings thereupon to the Court of said
 37 county. Given under my hand this —— day of ——.

XIV. The report of the freeholders so made, together
 2 with the certificate of the justice of the peace as aforesaid,
 3 shall be forthwith returned by the said freeholders to the
 4 Court of the county; and unless good cause can be shown
 5 against the report, it shall be confirmed by the Court and
 6 entered on record. But if the said report should be dis-
 7 affirmed, or if the said freeholders, being unable to agree,
 8 should report their disagreement, or from any other cause,

9 they should fail to make a report within a reasonable time
 10 after their appointment, the Court may in its discretion,
 11 as often as may be necessary, supersede them, or any of
 12 them, appoint others in their stead, and direct another
 13 view and report to be made in the same manner as above
 14 prescribed.

XV. On the confirmation of any such report, and on
 2 payment, or tender to the proprietors of the land, of the
 3 damages so assessed, or the payment of said damages into
 4 Court, when, for good cause shewn, the Court shall have
 5 so ordered it, the land reviewed and assessed as aforesaid,
 6 shall be vested in the "Great Western River and Rail
 7 Road Transportation Company," and they shall be adjudg-
 8 ed to hold the same in fee simple, in the same manner as
 9 if the proprietor had sold and conveyed it to them.

XVI. While these proceedings are depending, for the
 2 purpose of ascertaining the damages to the proprietor for
 3 the condemnation of his land, and even before they shall
 4 have been instituted, the President and Directors, if the
 5 interest of the company requires it, may by themselves,
 6 their officers, agents and servants, enter upon the lands
 7 laid out by them as aforesaid and which they desire to
 8 condemn, and apply the same to the use of the company.
 9 If when they so take possession, proceedings to ascertain
 10 the damages as aforesaid, be pending, it shall be their
 11 duty diligently to prosecute them to a conclusion; and
 12 when the report of the freeholders ascertaining the dama-
 13 ges shall be returned and confirmed, the Court shall ren-
 14 der judgment in favor of the proprietor of the land for the
 15 amount thereof, and either compel its payment into Court
 16 or award a process of execution therefor, as to them shall
 17 seem right.

XVII. In the mean time no order shall be made, and
 2 no injunction shall be awarded by any Court or judge to
 3 stay the proceedings of the company in the prosecution

4 of their work, un'ess it be manifest that their officers,
 5 agents and servants, are transcending the authority given
 6 them by this act; and that the interposition of their
 7 Court is necessary to prevent injury that cannot be ade-
 8 quately compensated for in damages.

XVIII. If the Presidnt and Directors shall take pos-
 2 session of any land before the same shall have been pur-
 3 chased by them, or condemned and paid for, according to
 4 the provisions of this act, and shall fail for forty days to
 5 institute proceedings for its condemnation as aforesaid, or
 6 shall not prosecute with due diligence the proceedings
 7 commenced for that purpose, it shall be lawful for the
 8 proprietor of the land, upon giving to the said President
 9 and Directors, or any one of them, ten days previous no-
 10 tice, to apply to the Court of the county in which the land
 11 or the greater part thereof shall lie; and upon such ap-
 12 plication, the Court shall appoint five disinterested and
 13 impartial freeholders, to assess the damages to the owners
 14 from the condemnation of his lands for the use of the com-
 15 pany, shall appoint a day for their meeting, to report the
 16 duties assigned them, and shall dismiss at the cost of the
 17 company, any proceedings then depending in their behalf
 18 for the condemnation of said land. The freeholders so
 19 appointed, any three or more of whom may act, shall pro-
 20 ceed in the performance of their duties in all respects in
 21 the same manner as if they had been appointed on the
 22 application of the President and Directors of the company.
 23 And the Court shall in like manner confirm or disapprove
 24 their report, supersede them or any of them, and appoint
 25 others in their stead, or direct another view and report,
 26 to be made as often as any be necessary; and when any
 27 such report, ascertaining the damages, shall be confirmed,
 28 the Court shall render judgment in favor of the proprie-
 29 tor for the damages so assessed, and double the costs; and
 30 shall thereupon either compel the company to pay into

31 Court the damages and costs so adjudged, or award a pro-
 32 cess of execution therefor, as to them shall seem right.

XIX. When the judgment rendered for the damages
 2 assessed and costs, shall be satisfied by the payment of
 3 the money into Court, or otherwise, the title of the land
 4 for which such damages are assessed, shall be vested in
 5 the company in the same manner as if the proprietor had
 6 sold and conveyed it to them.

XX. The said President and Directors, for the purpose
 2 of constructing their work aforesaid and the works neces-
 3 sarily connected therewith, or of repairing the same, af-
 4 ter they shall have been made, or of enlarging or other-
 5 wise altering the same, shall be at liberty, by themselves,
 6 their officers, agents or servants, at any time, to enter
 7 upon any adjacent land, and to cut, quarry, dig, take and
 8 carry away therefrom any wood, stone, gravel, or earth
 9 which they may deem necessary. *Provided* however, that
 10 they shall not, without the consent of the owner, cut down
 11 any fruit trees, or any tree preserved in any lot or field
 12 for shade or for ornament, nor take any timber, gravel, stone
 13 or earth constituting any part of the fence or building.
 14 For all wood, stone, gravel, or earth, taken under author-
 15 ity of this act, and for all incidental injuries done to the
 16 enclosures, crops, woods, or grounds, in taking or carry-
 17 ing the same away, the said President and Directors shall
 18 make to the owner a fair and reasonable compensation,
 19 to be ascertained, if the parties cannot agree, by three
 20 impartial and disinterested freeholders, who being ap-
 21 pointed for that purpose by any justice of the peace there-
 22 to required by the owner, shall be sworn by him and shall
 23 then ascertain the compensation upon their own view of
 24 the wood, stone, gravel, or earth taken, and of the injury
 25 done as aforesaid in taking them. *Provided* however,
 26 that it shall be the duty of the owner or owners to show
 27 to the justices of the peace to whom the application is

made, that ten days previous notice of the time of making the same has been given to the President, or one of the principal agents of the company; and no award which may be given under any appointment, without such notice, shall be obligatory or binding on said company; *Provided* however, that either party not satisfied with the award which may be given as above, may appeal to the Court of Pleas and Quarter Sessions of the county in which the land may be situated, who may, as in the case of assessment of land, confirm or disaffirm the report of the freeholders, supersede them, or any of them, and appoint others in their stead, or direct another view and report to be made as often as may be necessary.

XXI. If the said President and Directors, in entering upon the land of any person under the authority of this Act, for the purpose of laying out or constructing, enlarging, altering, or repairing any of their said works, shall by themselves, or their officers, do any wanton or wilful injury to such land, or its appurtenances, or to the crop growing, or gathered, or to any other property thereon, the "Great Western River and Rail Road Transportation Company," shall pay to the persons so injured double the amount of damages, which shall be assessed by a jury in any proper action therefor; or if said injury be done by any person or persons, who may have contracted with the company for the construction of any portion of their work, or any of the works connected therewith, he or they shall be responsible to the party injured in the like amount.

XXII. *Be it further enacted*, That all acts and clauses of acts, which come within the perview and meaning of this act, or which give rights, privileges and franchises at variance with those given by this act, but which rights, privileges and franchises have not as yet been used and

6 enjoyed, be and they are hereby declared to be repealed
7 and made void.

XXIII. The said President and Directors, or a majority
2 of them, shall have power to purchase with the funds of
3 the company, and place on the River, which shall have
4 been improved, boats of any description whatever, and
5 upon the Portage Rail Road, when it shall have been con-
6 structed, such means of transportation as to them may
7 appear desirable, or if they should deem it most expedi-
8 ent to do so, they may contract with any individual or in-
9 dividuals for effecting the transportation of the same.

XXIV. All Boats and Cars and other property purchas-
2 ed as aforesaid with the funds of the company, or engaged
3 in the business of transportation on said River or Rivers,
4 and Portage Rail Road, and all the works of the said
5 company constructed, or property acquired under the au-
6 thority of this act, and all profits which shall accrue from
7 the same, shall be vested in the respective stockholders
8 of the company forever, in proportion to their respective
9 shares, and the same shall be deemed personal estate, and
10 shall be exempt from any public charge or tax whatsoever,
11 for the term of fifteen years; and thereafter the Legisla-
12 ture may impose a tax not exceeding twenty five cents
13 per annum, per share, on each share of the capital stock,
14 whenever the annual profits thereof shall exceed six per
15 cent.

XXV. When this work shall have been completed, the
2 company shall at all times furnish and keep in good repair
3 the necessary boats and cars, and other requisites for the
4 safe and convenient transportation of persons and proper-
5 ty; and it shall be their duty at all times, upon the pay-
6 ment, or tender of the tolls hereby allowed, to transport
7 to any depot on the River or Rail Road, which the owner
8 of the goods may indicate, and there to deliver all articles
9 which shall be delivered to them, for transportation, or

10 offered to them in proper condition to be transported
11 at some depot on the Rivers or Portage Rail Road, most
12 convenient for the reception thereof.

XXVI. They shall give no undue preference in transportation to the property of one person over that of another, but as far as practicable shall carry each in the order of time in which it shall be delivered or offered for transportation with tolls paid or tendered. If the company or any of its officers or agents shall fail to receive, transport, or deliver in due time, any property so offered or delivered to them for transportation, or shall fail to take up or set down any passengers, at the regular depots or stopping places, on the Rail Road and River, as they may direct, upon the payment, or tender of the passage money hereby allowed, they shall forfeit and pay to the party so injured, double the amount of the lawful toll paid or tendered; and shall moreover, be liable to an action on the case, in which full damages and costs shall be recovered.

XXVII. So soon as any portion of the River or Portage Rail Road, hereby authorized, may be in readiness for transportation, it shall be lawful for the said President and Directors to transport, by their officers or agents, or by contractors under them, persons and property on the same; and they shall have power to charge for the transportation of persons, goods, produce, merchandize and other articles, and for the transportation of the mails, any sum not exceeding the following rates viz: on persons, not exceeding six cents per mile for each person; for the transportation of goods, produce and merchandize, and other articles, not exceeding an average of ten cents per ton per mile; and for the transportation of the mail, such sums as they may agree for; and the said President and Directors shall be furthermore entitled to demand and receive for the weighing, storage, and delivering of produce

17 and other commodities at their depots and warehouses,
18 rates not exceeding the ordinary warehouse rates charg-
19 ed for such services.

XXVIII. As soon as the River or Rivers shall be made
2 navigable for steamboats of light draft, and the Portage
3 Rail Road, or a part of it, shall be constructed, the Presi-
4 dent and Directors shall, at their discretion, annually or
5 semi-annually, declare and make such dividends as they
6 deem proper of the nett profits arising from the resour-
7 ces of the said company, after deducting the necessary
8 amount and probable contingent expenses of the said
9 company; and shall divide the same among the proprie-
10 tors of the stock of the said company, in proportion to
11 their respective shares.

XXIX. An annual meeting of the subscribers to the
2 stock of the said company shall be held at such time and
3 place in each year, as the stockholders at their first gen-
4 eral or at any subsequent meeting may appoint; to con-
5 stitute which, or any general meeting called by the Pre-
6 sident and Directors according to the provisions of this
7 act, the presence of proprietors entitled to a majority of
8 all the votes which could be given by all the stockholders,
9 shall be necessary, either in person or by proxy, properly
10 authorized; and if a sufficient number do not attend on
11 that day, or any day appointed for a general meeting call-
12 ed by the Directors as aforesaid, the proprietors who do
13 attend may adjourn from time to time, until a general
14 meeting shall be had.

XXX. In counting all votes of the said company, each
2 member shall be allowed one vote for every two shares
3 not exceeding four shares; one vote for every four shares
4 above four shares, and not exceeding ten shares; and one
5 vote for every five shares above ten, by him held at the
6 time in the stock of the company: *Provided* however,
7 that no stockholder, whether an individual, body politic

8 or corporate, shall be entitled to more than sixty votes on
9 any amount of the capital stock of said company held by
10 him or them.

XXXI. The President and Directors shall render distinct
2 accounts of their proceedings and disbursements of money
3 to the annual meeting of the stockholders. The works
4 hereby required of the company, shall be executed with
5 diligence; and if they be not commenced within four years
6 after the passage of this act, and finished within ten years
7 after the first general meeting of the stockholders, then
8 this charter shall be forfeited.

XXXII. The President and Directors shall cause to be
2 written or printed certificates for the shares of the stock
3 in said company, and shall deliver one such certificate,
4 signed by the President, and countersigned by the Treas-
5 urer, to each person, for the number of shares subscribed
6 by him, which certificate shall be transferable by him, sub-
7 ject, however, to all payments due or to become due there-
8 on; and such assignee having first caused the transfer,
9 or assignment to be entered in a book of the company, to
10 be kept for that purpose, shall thenceforth become a mem-
11 ber of the said company, and shall be liable to pay all
12 such sums due, or which shall become due upon the stock
13 assigned to him: *Provided* however, that such assignment
14 shall in no wise exempt the assignee, or his representa-
15 tive, from the liability to the said company for the pay-
16 ment of all such sums, if the assignee, or his representa-
17 tives, shall be unable, or fail to pay the same.

XXXIII. *Be it further enacted*, That if at any time
2 hereafter, the above rates of toll and transportation shall
3 enable the said President and Directors, after the pay-
4 ment of all necessary expenses, and after setting apart a
5 fair and reasonable sum for the renewal and repair of
6 said work, warehouses, depots, boats, engines, cars, and
7 other works, to divide more than twenty per cent. on their

8 capital stock invested, that the said rates of toll and trans-
9 portation shall be so reduced by the said President and
10 Directors, as to enable them to divide twenty per cent, and
11 no more.

XXXIV. That no person shall be eligible as President
2 or Director of said company, unless he be a resident citi-
3 zen of this State.

XXXV. *Be it further enacted*, That the corporate pow-
2 ers herein granted shall be and enure for ninety nine
3 years and no longer, unless renewed by the competent
4 authority.

XXXVI. That the said company shall have the exclu-
2 sive right of conveyance or transportation of persons,
3 goods, merchandise and produce, over the said Portage
4 Rail Road, to be by them constructed, at such charges
5 as may be fixed on by a majority of the Directors.

XXXVII. That the said company may, when they see
2 fit, farm out their right of transportation over said Por-
3 tage Rail Road, subject to the rules above mentioned;
4 and said company, and every person who may have recei-
5 ved from them the right of transportation of goods, wares
6 and produce, on the Portage Rail Road, shall be deemed
7 and taken to be a common carrier, as respects all goods,
8 wares, produce and merchandise, entrusted to them for
9 transportation.

XXXVIII. That the said company may, at any time,
2 increase its capital to a sum sufficient to complete said
3 improvement, not exceeding ——— dollars, either by
4 opening books for new stock, or by selling such new stock,
5 or by borrowing money on the credit of the company, and
6 on the mortgage of its charter and works, and the man-
7 ner in which the same shall be done in either case, shall
8 be prescribed by the stockholders at a general meeting.

XXXIX. That the company shall have the right, when
2 necessary, to conduct the Portage Rail Road across, or
3 along any public road or water course: *Provided*, That

4 the said company shall not obstruct any public road with-
5 out constructing another equally as good and as conve-
6 nient, nor without making a draw in any bridge of said
7 Portage Road, which may cross a navigable stream, suffi-
8 cient for the passage of vessels navigating such stream,
9 which draw shall be opened by the company, for the free
10 passage of vessels navigating such stream.

XL. That if any person or persons shall intrude upon
2 the said Portage Rail Road, the locks and dams by any
3 manner of use thereof, or of the rights and privileges con-
4 nected therewith, without the permission, or contrary to
5 the will of the said company, he, she, or they, may be
6 indicted for misdemeanor, and upon conviction, fined and
7 imprisoned by any Court of competent jurisdiction.

XLI. That the following officers and servants, and per-
2 sons, in the actual employment of the said company be,
3 and they are hereby exempted from the performance of
4 jury, and ordinary militia duty. The President and Treas-
5 urer of the Board of Directors, and chief and assistant en-
6 gineers, the secretaries and accountants of the company,
7 keepers of the depositories, guard stationed on the road &
8 rivers, to protect the same from injury, lock keepers, and
9 such persons as may be working the locomotive engines
10 and travelling with cars for the purpose of attending to the
11 transportation of produce, goods, and passengers on the
12 Portage Road or said Rivers.

XLIII. If any person shall wilfully and maliciously des-
2 troy, or in any manner hurt, or damage, or obstruct, or
3 shall wilfully and maliciously cause, or aid, or assist, or
4 counsel and advise any other person or persons to destroy,
5 or in any manner hurt, damage, or destroy, injure, or ob-
6 struct the said Portage Rail Road, or any bridge, or ve-
7 hicle used for, or in the transportation thereon, any water
8 tank, warehouse, lock, dam, or boat, or any other pro-

9 perty of said company, such person or persons, so offend-
10 ing, shall be liable to be indicted therefor, and on convic-
11 tion, shall be imprisoned, not more than six, nor less than
12 one month, and pay a fine not exceeding five hundred dol-
13 lars, nor less than twenty dollars, at the direction of the
14 Court before which said conviction shall take place, and
15 shall be further liable to pay all expenses of repairing the
16 same; and it shall not be competent for any person so of-
17 fending against the provisions of this clause to defend
18 himself by pleading, or giving in evidence that he was
19 the owner, agent, or servant of the owner of the land where
20 such destruction, hurt, damage, injury, or obstruction was
21 done, at the time the same was done, or caused to be
22 done.

[SENATE Doc. 76.]

RESOLUTION

IN RELATION

TO THE WORLD'S FAIR

TO BE HELD

IN LONDON.

Senate 23 Dec. 1850.

[Introduced by Mr. BOND.

Passed first reading, ordered to be printed, and made the order of
the day for 1st January.]

RESOLUTION.

Resolved, That it is expedient, that the General Assembly of North Carolina, now in session, appoint a delegation of Gentlemen, to attend the World's Fair, to be held in London next May.

[House Doc. 76.]

A B I L L

TO
INCORPORATE

THE

NORTH CAROLINA AND TENNESSEE

RAIL ROAD COMPANY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. AVERY. Read first time and passed, and on motion of Mr. Avery, referred to committee on Internal Improvemets, and ordered to be printed.]

A BILL

To incorporate the North Carolina and Tennessee Rail Road Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of effecting a rail road communication between the North Carolina Rail Road at the town of Salisbury, and the town of Knoxville, Tennessee, the formation of a corporate company, with a capital stock of three millions of dollars, is hereby authorised, to be called the North Carolina and Tennessee Rail Road Company, and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic in perpetuity.

II. That the said company be, and the same is hereby authorised to construct a rail road commencing at a point upon the North Carolina rail road, at or near the town of Salisbury, in the county of Rowan, and thence by the most practicable route across the Blue Ridge, to the line of the State of Tennessee, said line to be intersected at such point as will form a junction with a rail road from Knoxville to the dividing line between the States of North Carolina and Tennessee.

III. That for the purpose of forming the said capital stock of said company, the following persons be, and the same are hereby appointed commissioners, viz:

That it shall and may be lawful to open books in the town of _____ under the directions of

or any three of them. At

IV. That all persons who may hereafter be authorized

2 to open books for subscription of stock by the commis-
3 sioners herein appointed for that purpose, shall open said
4 books at any time after the ratification of this act, twen-
5 ty days' previous notice being given in some one or more
6 of the public newspapers in this State; and that the said
7 books, when opened, shall be kept open for the space of
8 thirty days at least and as long thereafter as the commis-
9 sioners first above named shall direct; and that all sub-
10 scription of stock shall be in shares of one hundred dol-
11 lars, the subscriber paying, at the same time of making
12 such subscription, five dollars on each share thus sub-
13 scribed, to the person or persons authorized to receive
14 such subscription; and in case of failure to pay said sum,
15 all such subscriptions shall be void and of no effect; and
16 upon closing the books, all such sums as shall have been
17 thus received of subscribers on the first cash instalment,
18 shall be paid over to the general commissioners named in
19 the third section of this act, by the persons receiving
20 them; and for failure thereof, such person or persons shall
21 be personally liable to said general commissioners before
22 the organization of said company, and to the company it-
23 self after its organization, to be recovered in the Superior
24 Court of law within this State, in the county where such
25 delinquent resides, or if he reside in any other State, then
26 in any Court in such State having competent jurisdic-
27 tion. The said general commissioners shall have power
28 to call on and require all persons empowered to receive
29 subscriptions, at any time and from time to time, as a ma-
30 jority of them may think proper, to make a return of the
31 stock by them respectively received, and to make pay-
32 ments of all sums made by the subscribers; that all per-
33 sons receiving subscriptions of stock shall pass a receipt
34 to the subscriber or subscribers for the payment of the
35 first instalment, as heretofore required to be paid; and up-
36 on their settlement with the general commissioners, as
37 aforesaid, it shall be the duty of the said general com.

missioners in like manner to pass their receipt for all sums of money thus received, to the person from whom received; and such receipts shall be taken and held to be good and sufficient vouchers to the persons holding them. That subscriptions of stock thus received to an amount not exceeding

V. It shall be the duty of said general commissioners to direct and authorize the keeping open of books for the subscription of stock, in the manner above described, until the sum of one million of dollars shall have been subscribed to the capital stock of said company; and that as soon as the said sum of one million of dollars shall have been subscribed, and the first instalment of five dollars per share on said sum shall have been received by the general commissioners, said company shall be regarded as formed, and the said commissioners, or a majority of them, shall sign and seal a duplicate declaration to that effect, with the names of the subscribers appended, and cause one of the said duplicates to be deposited in the office of the Secretary of State, and thenceforth, from the closing of the books of subscription as aforesaid, the said subscribers to the stock shall form one body politic and corporate in deed and in law, for the purposes aforesaid, by the name and style of the North Carolina and Tennessee Rail Road Company.

VI. That whenever the sum of one million of dollars shall be subscribed in manner and form aforesaid, the subscribers, their executors, administrators and assigns, shall be, and they are hereby declared to be incorporated into a company by the name and style of "the North Carolina and Tennessee Rail Road Company;" and by that name shall be capable in law and equity of purchasing, holding, selling, leasing and conveying estates, real, personal and mixed, and acquiring the same by gift or devise, so far as shall be necessary for the purposes embraced

11 within the scope, object and interest of this charter, and
 12 no further; and shall have perpetual succession, and by
 13 their corporate name may sue and be sued, plead and be
 14 impleaded in any Court of Law and Equity in the State
 15 of North Carolina; and may have and use a common seal,
 16 which they may alter and renew at pleasure; and shall
 17 have and enjoy all other rights and immunities which oth-
 18 er corporate bodies may and of right do exercise; and may
 19 make all such by-laws, rules and regulations, as are ne-
 20 cessary for the government of the corporation, or effect-
 21 ing the object for which it is created, not inconsistent with
 22 the constitution and laws of the United States and of the
 23 State of North Carolina.

VII. That notice of process upon the principal agents
 2 of said company, or the president or any of the directors
 3 thereof, shall be deemed and taken to be due and lawful
 4 notice of service of process upon the company, so as to
 5 bring it before any Court within the State of North Caro-
 6 lina.

VIII. That as soon as the sum of one million of dollars
 2 shall have been subscribed in manner and form aforesaid,
 3 it shall be the duty of the general commissioners, appoint-
 4 ed under the third section of this act, to appoint a time
 5 for the stockholders to meet at _____, in
 6 _____ county, which they shall cause to be
 7 previously published, for the space of thirty days, in one
 8 or more newspapers as they may deem proper; at which
 9 time and place the said stockholders, in person or proxy,
 10 shall proceed to elect the directors of the company, and
 11 to enact all such regulations and by-laws as may be ne-
 12 cessary for the government of the corporation and the
 13 transaction of its business. The persons elected direct-
 14 ors at this meeting, shall serve such a period, not exceed-
 15 ing one year, as the stockholders may direct; and at this
 16 meeting, the stockholders shall fix on the day and place or
 17 places when the subsequent election of directors shall be
 18 held; and such elections shall henceforth be annually made;

19 but if the day of the annual election should pass without
 20 any election of directors, the corporation shall not there-
 21 by be dissolved, but it shall be lawful on any other day
 22 to hold and make such election in such manner as may be
 23 prescribed by a by-law of the corporation.

IX. That the affairs of the company shall be managed
 2 and directed by a general board, to consist of twelve di-
 3 rectors, to be elected by the stockholders from among
 4 their number, at the first and subsequent general annual
 5 meetings, as prescribed in the eighth section of this act.

X. That the election of directors shall be by ballot,
 2 each stockholder having as many votes as he has shares
 3 in the stock of said company; and the person having a
 4 majority of all the votes polled, shall be considered as du-
 5 ly elected.

XI. That the president of the company shall be elect-
 2 ed by the directors from among their own number, in
 3 such manner as the regulations of the company shall pre-
 4 scribe.

XII. That at the first general meeting of the stock-
 2 holders to be called under section eighth of this act, a
 3 majority of all the shares subscribed shall be represented
 4 before proceeding to business; and if a sufficient number
 5 do not appear on the day appointed, those who do attend
 6 shall have the power to adjourn from time to time until a
 7 regular meeting shall be thus formed; and at such meet-
 8 ing the stockholders may provide by a by-law, as to the
 9 number of stockholders and the amount of stock to be
 10 held by them, which shall constitute a quorum for trans-
 11 acting business at all subsequent regular or occasional
 12 meetings of stockholders and directors.

XIII. That at all elections, and upon all votes taken
 2 in any general meeting of the stockholders, upon any by-
 3 law or any of the affairs of the company, each share of
 4 stock shall be entitled to one vote, and that any stock-
 5 holder in said company may vote by proxy; and proxies

6 may be verified in such manner as the stockholders by
7 by-laws may prescribe.

XIV. That the general commissioners shall make their
2 return of the shares of stock subscribed for, at the first
3 general meeting of stockholders, and pay over to the di-
4 rectors elected at said meeting, or their authorized agent,
5 all sums of money received from subscribers; and for fail-
6 ure therefor shall be personally liable to said company,
7 to be recovered at the suit of said company, in any of
8 the Superior Courts of law in this State, within the coun-
9 ty where such delinquent or delinquents may reside, and
10 in like manner from said delinquent or delinquents' exe-
11 cutors or administrators, in case of his or their death.

XV. That the board of directors may fill all vacancies
2 which may occur in it during the period for which they
3 have been elected, and in the absence of the president
4 may fill his place by electing a president *pro tem.* from
5 among their number.

XVI. That all contracts or agreements, authenticated
2 by the president and secretary of the board of directors,
3 shall be binding on the company without a seal, or such
4 a mode of authentication may be used as the company,
5 by their by-laws, may adopt.

XVII. That the company shall have power and may
2 proceed to construct, as speedily as possible, a rail road
3 with one or more tracks, of the same width of the North
4 Carolina Rail Road, to be used with steam power, which
5 shall extend from the North Carolina Rail Road, at or
6 near the town of Salisbury, in Rowan county, to a point
7 on the line dividing the States of North Carolina and
8 Tennessee; and said company may use any section of the
9 rail road constructed by them, before the whole of said
10 road shall be completed: *Provided*, that the construction
11 of said road shall not be commenced until a company
12 shall be incorporated by the State of Tennessee for con-
13 structing a rail road from the point where the North Ca-
14 rolina and Tennessee Rail Road intersects the line of the

15 State of Tennessee to Knoxville, so as to effect a rail
16 road communication between the town of Salisbury, in
17 North Carolina, and the town of Knoxville, in Tennes-
18 see, nor until the stock in said company chartered by the
19 State of Tennessee shall have been taken and the compa-
20 ny fully organized.

XVIII. That the said company shall have the exclu-
2 sive right of conveyance or transportation of persons,
3 goods, merchandise and produce over the said rail road,
4 to be by them constructed, at such charges as may be
5 fixed on by a majority of the directors.

XIX. That the said company may, when they see fit,
2 farm out their right of transportation over said rail road,
3 subject to the rules above mentioned; and the said com-
4 pany and every person who may have received from them
5 the right of transportation of goods, wares and produce
6 on the said rail road, shall be deemed and taken a com-
7 mon carrier, as respects all goods, wares, produce and
8 merchandise entrusted to them for transportation.

XX. That the board of directors may call for the pay-
2 ment of the sums subscribed as stock in said company in
3 such instalments as the interest of said company may, in
4 their opinion, require; the call for each payment shall be
5 published in one or more newspapers in this State for the
6 space of one month before the day of payment; and on
7 failure of any stockholder to pay each instalment, as thus
8 required, the directors may sell at public auction, on a
9 previous notice of ten days, for cash, all the stock sub-
10 scribed for in said company, by such stockholder, and con-
11 vey the same to the purchaser at said sale; and if said
12 sale of stock do not produce a sum sufficient to pay off
13 the incidental expenses of the sale, and the entire amount
14 owing by such stockholder to the company for such sub-
15 scription of stock, then and in that case the whole of such
16 balance shall be held and taken as due at once to the com-
17 pany, and may be recovered of such stockholder or his ex-

18 eutors, administrators or assigns, at the suit of said com-
19 pany, either by summary motion in the Court of Superior
20 jurisdiction in the county where the delinquent resides, on
21 a previous notice of ten days to said subscriber, or by ac-
22 tion of assumpsit in any Court of competent jurisdiction,
23 or by a warrant before a Justice of the Peace, when the
24 sum does not exceed one hundred dollars; and in all cases
25 of assignment of stock before the whole amount has been
26 paid to the company, then for all sums due on such stock,
27 both the original subscribers, and the first and all subsequent
28 assignees shall be liable to the company, and the same may
29 be recovered as above described.

XXI. That the debt of stockholders, due to the com-
2 pany for stock therein, either as original proprietor or as
3 first or subsequent assignee, shall be considered as of
4 equal dignity with judgments in the distribution of as-
5 sets of a deceased stockholder, by his legal representa-
6 tives.

XXII. That said company shall issue certificates of
2 stock to its members; and said stock may be transferred
3 in such manner and form as may be directed by the by-
4 laws of the company.

XXIII. That the board of directors shall once in every
2 year make a full report on the state of the company and
3 its affairs to a general meeting of the stockholders, and
4 oftener if required by a by-law; and shall have power to
5 call a general meeting of the stockholders, when the board
6 may deem it expedient; and the company may provide, in
7 their by-laws, for occasional meetings being called, and
8 prescribe the mode thereof.

XXIV. That the said company may purchase, have
2 and hold, in fee, or for a term of years, any land, tene-
3 ments, or hereditaments which may be necessary for the
4 said road, or the appurtenances thereof, or for the erec-
5 tion of depositories, store houses, houses for the officers,
6 servants or agents of the company, or for workshops or
7 foundaries, to be used for the said company, or for pro-

8 curing stone or other materials necessary to the construc-
9 tion of the road, or for effecting transportation thereon, and
10 for no other purposes whatever.

XXV. That the company shall have the right, when
2 necessary, to conduct the said road across or along any
3 public road or water course: *Provided*, That the said
4 company shall not obstruct any public road, without con-
5 structing another equally as good and as convenient, nor
6 without making a draw in any bridge of said road, which
7 may cross a navigable stream, sufficient for the passage of
8 vessels navigating such stream, which draw shall be opened
9 by the company for the free passage of vessels navigat-
10 ing such stream.

XXVI. That when any lands or right of way may be
2 required by said company, for the purpose of construct-
3 ing their road, and for the want of agreement as to the
4 value thereof, or from any other cause, the same cannot
5 be purchased from the owner or owners, the same may be
6 taken at a valuation to be made by five commissioners, or
7 a majority of them, to be appointed by any Court of re-
8 cord having common law jurisdiction in the county where
9 some part of the land or right of way is situated. In
10 making the said valuation, the said commissioners shall
11 take into consideration the loss or damage which may ac-
12 crue to the owner or owners in consequence of the land
13 or right of way being surrendered, and the benefit and
14 advantage he, she or they may receive from the erection
15 or establishment of the rail road or work, and shall state
16 particularly the value and amount of each; and the ex-
17 cess of loss and damage, over and above the advantage
18 and benefit, shall form the measure of valuation of the
19 said land or right of way: *Provided* nevertheless, that
20 if any person or persons over whose land the road may
21 pass shall be dissatisfied with the valuation of said com-
22 missioners, then and in that case, the person or persons so
23 dissatisfied may have an appeal to the Superior Court, in
24 the county where the said valuation has been made, or in

25 either in which the land lies, when it may lie in more
26 than one county, under the same rules, regulations and
27 restrictions as in appeals from judgments of Justices of
28 the Peace. The proceedings of the said commissioners,
29 accompanied with a full description of said land or right
30 of way, shall be returned, under the hands and seals of
31 a majority of the commissioners, to the Court from which
32 the commission issued, there to remain a matter of re-
33 cord. And the lands or right of way so valued by the
34 said commissioners, shall vest in said company so long as
35 the same shall be used for the purposes of said rail road,
36 so soon as the valuation may be paid, or, when refused,
37 may have been tendered: *Provided*, That on application
38 for the appointment of commissioners under this section,
39 it shall be made to appear to the satisfaction of the Court,
40 that at least ten days previous notice has been given by
41 the applicant to the owner or owners of land so proposed
42 to be condemned, or, if the owner or owners be infants or
43 *non compos mentis*, then to the guardian of such owner or
44 owners, if such guardian can be found within the county,
45 or if he cannot be so found, then such appointment shall
46 not be made unless notice of the application shall have
47 been published, at least one month next preceding, in
48 some newspaper printed as convenient as may be to the
49 Court House of the county, and shall have been posted
50 at the door of the Court House, on the first day at least
51 of the term of said Court, to which the application is
52 made: *Provided further*, that the valuation provided for
53 in this section, shall be made on oath by the commission-
54 ers aforesaid, which oath, any Justice of the Peace, or
55 Clerk of the Court of the county in which the land or a
56 part of it lies, is hereby authorized to administer: *Pro-*
57 *vided further*, That the right of condemnation herein
58 granted shall not authorise the said company to invade
59 the dwelling house, yard, garden or burial ground of any
60 individual without his consent.

XXVII. That the right of said company to condemn
2 lands in the manner described in the 26th section of this
3 act, shall extend to the condemning one hundred feet on
4 each side of the main track of the road, measuring from
5 the centre of the same, unless in case of deep cuts and
6 fillings, when the said company shall have power to con-
7 demn as much in addition thereto, as may be necessary
8 for the purpose of constructing said road; and the com-
9 pany shall also have power to condemn any appropriate
10 lands in like manner, for the constructing and building
11 of depots, shops, warehouses, buildings for servants, agents
12 and persons employed on the road, not exceeding two
13 acres in any one lot or station.

XXVIII. That in the absence of any contract or con-
2 tracts with said company, in relation to lands through
3 which the said road or its branches may pass, signed by
4 the owner thereof or by his agent, or any claimant or
5 person in possession thereof, which may be confirmed by
6 the owner thereof, it shall be presumed that the land up-
7 on which the said road or any of its branches may be con-
8 structed, together with a space of one hundred feet on
9 each side of the centre of the said road, has been grant-
10 ed to the said company, by the owners thereof; and the
11 said company shall have good right and title thereto, and
12 shall hold and enjoy the same as long as the same shall
13 be used for the purposes of said road and no longer, un-
14 less the person or persons owning the said land at the
15 time that part of the said road which may be on the said
16 land, was finished; or those claiming under him, her or
17 them, shall apply for an assessment of the value of said
18 lands, as herein before directed, within two years next af-
19 ter that part of the said road was finished; and in case
20 the said owner or owners, or those claiming under him,
21 her or them, shall not apply within two years next after
22 the said part was finished, he, she or they shall be forever
23 barred from recovering said land or having any assessment

24 or compensation thereof: *Provided*, That nothing here-
25 in contained shall affect the rights of *femme coverts* or in-
26 fants until two years after the removal of their respective
27 disabilities.

XXIX. That all lands not heretofore granted to any
2 person, nor appropriated by law to the use of the State,
3 within one hundred feet of the centre of said road, which
4 may be constructed by the said company, shall vest in the
5 company as soon as the line of the road is definitely laid
6 out through it, and any grant of land thereafter shall be
7 void.

XXX. That if any person or persons shall intrude up-
2 on the said rail road by any manner of use thereof, or of
3 the rights and privileges connected therewith, without the
4 permission or contrary to the will of the said company,
5 he, she or they may be indicted for misdemeanor, and up-
6 on connection thereof, fined and imprisoned by any Court
7 of competent jurisdiction in this State.

XXXI. That if any person shall wilfully and mali-
2 ciously destroy, or in any manner hurt or damage, or ob-
3 struct, or shall wilfully and maliciously cause or aid, or
4 assist or counsel and advise any other person or persons
5 to destroy, or in any manner to hurt, damage or destroy,
6 or injure or obstruct the said rail road, or any bridge or
7 vehicle used for, or in the transportation thereon, any
8 water tank, warehouse, or any other property of said
9 company, such person or persons so offending, shall be
10 liable to be indicted therefor, and on conviction, shall be
11 imprisoned not more than six, nor less than one month,
12 and pay a fine not exceeding five hundred dollars, nor less
13 than twenty dollars, at the discretion of the Court before
14 which said conviction shall take place; and shall be fur-
15 ther liable to pay all expenses of repairing the same;
16 and it shall not be competent for any person so offending
17 against the provisions of this clause to defend himself by
18 pleading or giving in evidence that he was the owner,
19 agent or servant of the land where such distruction, hurt,

20 damage, injury, or obstruction was done, at the time the
21 same was done or caused to be done.

XXXII. That every obstruction to the safe and free
2 passage of vehicles on the said road or its branches, shall
3 be deemed a public nuisance, and may be abated as such
4 by any officer, agent or servant of said company; and the
5 person causing such obstruction may be indicted and pun-
6 ished for erecting a public nuisance.

XXXIII. That the said company shall have the right
2 to take at the store houses they may establish on, or an-
3 nex to their rail road or the branches thereof, all goods,
4 wares, merchandise and produce intended for transporta-
5 tion, prescribe the rules of priority and charge, and re-
6 ceive such just and reasonable compensation for storage,
7 as they by rules may establish (which they shall cause to
8 be published) or as may be fixed by agreement with the
9 owner, which may be distinct from the rules of transpor-
10 tation: *Provided*, That the said company shall not
11 charge or receive storage on goods, wares, merchandise
12 or produce which may be delivered to them at their regu-
13 lar depositories for immediate transportation, and which
14 the company may have power to transport immediate-
15 ly.

XXXIV. That the profits of the company, or so much
2 thereof as the general board may deem advisable, shall,
3 when the affairs of the company will permit, be semi-an-
4 nually divided among the stockholders in proportion to
5 the stock they may own.

XXXV. That whenever it shall appear to the board of
2 Internal Improvements of this State, by a certificate un-
3 der the seal of said company, signed by their Treasurer
4 and countersigned by their President, that one third has
5 been subscribed for and taken, and that at least five hun-
6 dred thousand dollars of said stock has been actually paid
7 into the hands of said Treasurer of said company, the
8 said board of Internal Improvements shall be, and they

9 are hereby authorized and required to subscribe, on behalf
10 of the State, for stock in said company, to the amount of
11 two millions of dollars to the capital stock of said compa-
12 ny; and the subscription shall be paid in the following
13 manner, viz: The one fourth part as soon as the said
14 company shall commence work, and one fourth thereof
15 every six months thereafter, until the whole subscription
16 in behalf of the State shall be paid: *provided*, the Trea-
17 surer and President of said company shall, before they
18 receive the aforesaid instalments, satisfactorily assure the
19 Board of Internal Improvements, by the certificate, un-
20 der the seal of said company, that an amount of the
21 private subscription has been paid in equal proportion to
22 the stock subscribed by the State.

XXXVI. That if in case the present Legislature shall
2 not provide the necessary and ample means to pay the
3 aforesaid instalments on the stock subscribed for on be-
4 half of the State, as provided for in the 36th section of
5 this act, and in that event, the Board of Internal Im-
6 provements aforesaid shall, and they are hereby author-
7 ized and empowered to borrow, on the credit of the State,
8 a sum not exceeding two millions of dollars, as the same
9 may be needed by the requirements of this act.

XXXVII. That if in case it shall become necessary
2 to borrow the money by this act authorized, the public
3 Treasurer shall issue the necessary certificates, signed by
4 himself and countersigned by the Comptroller, in sums
5 not less than one thousand dollars each, pledging the
6 State for the payment of the sum therein mentioned,
7 with interest thereon at the rate of interest not exceed-
8 ing six per cent. per annum, payable semi-annually, at
9 such times and places as the Treasurer may appoint—the
10 principal of which certificates shall be redeemable at the
11 end of thirty years from the time the same are issued;
12 but no greater amount of such certificates shall be issued
13 at any one time than may be sufficient to meet the instal-
14 ment required to be paid by the State at that time.

XXXVIII. That the comptroller shall register said
2 certificate at large in a book to be by him kept for that
3 purpose, at the time he countersigns the same; and when
4 he delivers the same to the public Treasurer, he shall
5 charge him in his books with the amount thereof, and
6 also with all sums, if any, as the public Treasurer may
7 obtain by way of premium on the sale of said certificates,
8 an account of which the public Treasurer shall render to
9 the Comptroller so soon as negotiations from time to time,
10 for the sale of said certificates, are closed.

XXXIX. That if it shall become necessary to issue
2 the certificates aforesaid, the public Treasurer shall ad-
3 vertise in one or more newspapers, as he may think best,
4 and invite sealed proposals for such amount of the afore-
5 said sum of two millions of dollars as may be wanted at
6 any one time; and it shall be his duty to accept those terms
7 which may be most advantageous to the State: *Provid-*
8 *ed*, that in no event shall any of the said certificates be
9 sold for less than their par value; and any premium which
10 may be obtained on the sale of said certificates shall be
11 placed in the public Treasury, and used as other public
12 funds in the payment of interest on the debt hereby cre-
13 ated.

XL. That as security for the redemption of said certi-
2 ficates of debt, the public faith of the State of North
3 Carolina is hereby pledged to the holders thereof, and in
4 addition thereto all the stock held by the State in "The
5 North Carolina and Tennessee Rail Road Company,"
6 hereby created, shall be, and the same is hereby, pledged
7 for that purpose; and any dividends of profit which may
8 from time to time, be applied to the payment of the in-
9 terest accruing on said certificates; but until such divi-
10 dends of profit may be declared, it shall be the duty of

11 the Treasurer, and he is hereby authorized and directed
12 to pay all such interest as the same may accrue, out of
13 any moneys in the Treasury not otherwise appropriat-
14 ed.

XLI. That the certificates of debt hereby authorized
2 to be issued, shall be transferable by the holders thereof,
3 their agents or attorneys, properly constituted, in a book
4 to be kept by the public Treasurer for that purpose; and
5 in every instance, when a transfer is made, the outstand-
6 ing certificate shall be surrendered and given up to the
7 public Treasurer, and by him cancelled, and a new one,
8 for the amount, issued in its place to the person to whom
9 the same is transferred.

XLII. That the State shall appoint the number of Di-
2 rectors in said company in proportion to the stock sub-
3 scribed, who shall be appointed by the Governor, by and
4 with the advice and consent of his council, and removed
5 in like manner.

XLIII. That the following officers and servants and
2 persons in the actual employment of the said company
3 be and they are hereby exempted from the performance
4 of jury and ordinary military duty: The President and
5 Treasurer of the Board of Directors, and the chief and
6 assistant Engineers, the Secretaries and accountants of
7 the company, keepers of the depositories, guard stationed
8 on the road to protect it from injury, and such persons
9 as may be working the locomotive engines and travelling
10 with cars for the purpose of attending to the transport-
11 ing of produce, goods and passengers on the road.

XLIV. *Be it further enacted,* That all the works here-
2 by required of the North Carolina and Tennessee Rail
3. Road Company shall be executed with due diligence; and

4 if they be not commenced within three years after the
5 ratification of this act, and finished within ten years after
6 the period of commencement, then this charter shall be
7 forfeited.

[House Doc. 77.]

REPORT

OF

THE COMMITTEE ON EDUCATION,

RELATIVE TO

THE BETTER APPLICATION

OF THE

COMMON SCHOOL FUND.

The Committee on Education, to whom was referred the accompanying Bill, entitled "a Bill for the better application of the Common School Fund," have had the same under consideration, and have instructed me to report it back to the House, and recommend that it do *not* pass.

Respectfully submitted.

W. L. STEELE, *Chairman.*

A BILL

FOR THE

BETTER APPLICATION

OF THE

COMMON SCHOOL FUND.

RALEIGH :

Thos. J. Lemay, Printer to the State.

1850.

[Introduced by Mr. McNEILL. Read first time, and on motion of Mr. McNeill, referred to Committee on Education, and passed.]

Nov. 25, 1850.

[Read second time and ordered to be printed, and laid on the table.]

Dec. 20, 1850.

A BILL

For the better application of the Common School Fund.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That it shall be the duty of the School Committees in their respective districts to carefully ascertain the number of children within the ages prescribed by law, whose parents or guardians are unable to pay for their education, and also those who are within the district without parent or guardian and have no estate, and report the same to the board of superintendents within three months after the first meeting of the said board. It shall also be the duty of the said committee to employ a teacher for their districts respectively; (reference being had as far as practicable, to the circumstances, desires and wishes, of those persons in the district most interested in the school,) on such terms as shall be advantageous to all concerned. It shall be the duty of the School Committee to ascertain, before the teacher is employed, what will be the amount of money due from the fund in the hands of the board of superintendents to their district, and to appropriate the same for the education of such children as are unable to defray the expenses of their own education ascertained and reported as aforesaid; and to give the teacher a draft on the Chairman of the Board of Superintendents for the same or so much thereof as he shall be entitled to: *Provided*, that no Committeeman shall, under any circumstances, be allowed to send any scholar to any of the said schools, but such as he shall pay for, nor shall any Committeeman be employed as a teacher in any of the said schools.*

II. That the said Committeemen shall receive such

2 compensation for their services as the County Court of
3 their county (a majority of Justices present) shall deem
4 just and adequate.

III. That the members of the Board of Superintend-
2 ents shall be allowed the sum of one dollar for every day
3 upon which they shall attend at any meeting of the said
4 board.

IV. That all laws and clauses of laws coming in con-
2 flict with this enactment, be, and the same are hereby re-
3 pealed.

A REPORT

OF THE

SELECT COMMITTEE

ON THE

RESOLUTION RELATING

TO THE

Raleigh and Gaston Railroad.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

REPORT.

The select committee, to whom was referred a resolution in relation to the Raleigh and Gaston Railroad, with instructions to draw a bill in conformity with the principles contained in the said resolution, have performed the duty assigned to them, and submit the accompanying Bill as the result of their labors, and commend it to the favorable consideration of the Senate.

A. JOYNER, *Chairman.*

[SENATE Doc. 81.]

A BILL

TO

INCORPORATE

THE

RALEIGH AND GASTON

Rail Road Company.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

[SENATE DEC 21]

[21]

LABOR

To incorporate the Labor and Business Railways Company

I, the undersigned, do hereby certify that the following is a true and correct copy of the bill introduced in the Senate of the State of New York, on the 21st day of December, 1850, and passed by the Senate on the 21st day of December, 1850.

Senate, Dec. 21, 1850.

[Introduced by Mr. JOYNER. Passed 1st reading, and ordered to be printed.]

LABOR AND BUSINESS

LABOR AND BUSINESS

SECTION 1. That the Labor and Business Railways Company be and it is hereby created, and its capital stock be and it is hereby fixed at the sum of one hundred thousand dollars, divided into one hundred thousand shares, each of the par value of one dollar.

SECTION 2. That the said company be authorized to borrow money, to purchase land, to construct and operate railroads, and to do all such other and various things as may be necessary or proper for the accomplishment of the objects and purposes of the said company.

SECTION 3. That the said company be authorized to issue bonds or other securities, and to mortgage its property, for the purpose of raising money to carry out its objects and purposes.

SECTION 4. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 5. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 6. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 7. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 8. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 9. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

SECTION 10. That the said company be authorized to make and alter its constitution, and to make and alter its by-laws, and to make and alter its rules and regulations, subject to the approval of the Senate.

Approved and passed in the Senate of the State of New York, on the 21st day of December, 1850.

THOMAS J. BURNETT, President of the Senate.

JOHN W. ALBION, Secretary of the Senate.

JOHN W. ALBION, Secretary of the Senate.

A B I L L

To incorporate the Raleigh and Gaston Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That Duncan Cameron, Richard Smith, William Boylan, George W. Mordecai, E. P. Guion, C. L. Hinton, W. W. Holden, W. F. Clarke, of Raleigh; John D. Hawkins, Wm. F. Hilliard, John D. Hawkins, jr. of Franklin county; Rhodes Herndon, R. B. Gilliam, K. Kingsbury, T. B. Venable, of Oxford; John H. Eaton, of Henderson, G. D. Baskerville, H. L. Plummer, John Somerville, K. Goodloe, Cooke, Thomas Paschall, Samuel Phillips, Wilson, of Warren county; of Orange county, and such other persons as may associate with them, their heirs and assigns, shall be, and they are hereby incorporated into a company, by the name and style of the Raleigh and Gaston Railroad Company, separate and distinct, and wholly unconnected with the company lately existing by the same name—and by that name shall be capable in law of purchasing, holding, selling and conveying estates real, personal and mixed, so far as shall be necessary for the purposes hereinafter mentioned, and no further; and shall have perpetual succession, and by said corporate name may sue and be sued, may have and use a common seal; and shall have and enjoy and exercise all the rights, powers and privileges, which other corporate bodies may lawfully do, for the purposes mentioned in this act; and may, from time to time, make all such by laws, rules and regulations, not inconsistent with the constitution and laws of this State, as shall be necessary for the well ordering and conducting the affairs of the company, upon the following fundamental terms and conditions, nevertheless, viz:

II. That the capital stock of the said company shall be eight hundred thousand dollars, the money part of which shall be used for the purpose of rebuilding the road, now the property of the State, and known as the Raleigh and Gaston Railroad, with a T iron rail, or iron of other form equally

6 good, weighing not less than fifty pounds to the lineal
7 yard, and other suitable materials, and to properly stock
8 and equip the same with necessary engines and cars to
9 do the transportation thereon; that the present Railroad,
10 known as the Raleigh and Gaston Railroad, with all its
11 machine shops, implements, ware houses, depots, water
12 stations, engines and cars, and every other description of
13 property appertaining to the same, shall form a part of the
14 capital stock of the said company, to the amount of four
15 hundred thousand dollars, which amount shall be owned
16 by the State of North Carolina in the said company; that
17 solvent individuals shall subscribe for the remaining four
18 hundred thousand dollars of the capital stock of the said
19 company, and after having expended one half of that sum
20 in the re-construction of said road, and the purchase of
21 engines and cars for its use, the President and Directors
22 of the said company, be, and they are hereby authorized
23 to mortgage the said road, with its franchises, and all its
24 engines, cars, machine shops, implements, ware houses,
25 water stations, and all other property appertaining to the
26 said railroad, for the purpose of enabling the said compa-
27 ny to purchase iron, implements and materials, for the
28 complete re-construction and re fitting of the said road;
29 to execute their bonds for the amount of such purchases,
30 one half payable in not more than five years, and the
31 other half payable within ten years, bearing interest at
32 the rate of six per cent. per annum, payable semi-annu-
33 ally, at such place as may be agreed upon between the
34 parties; which bonds and mortgage shall be redeemed
35 by the said individual subscribers at the times before
36 mentioned, and who shall semi-annually pay the interest
37 thereon. And if the said individual subscribers shall
38 fail or neglect to pay the interest on the said bonds as it
39 may become due, it shall be lawful for the holders of the
40 said bonds to have the mortgage, authorised by this act,
41 foreclosed in the Superior Court of Wake county, and all
42 the property therein expressed, sold for the redemption
43 of the said bonds and the interest thereon, with costs of
44 suit: *Provided nevertheless*, that whatever sum shall
45 remain out of the sale aforesaid, over and above the
46 amount necessary to discharge the said mortgage and
47 costs, shall enure to the use and benefit of the State of
48 North Carolina, and shall be paid to the Public Treasu-
49 rer of the State, unless the said remainder or surplus shall
50 exceed four hundred thousand dollars, in which case all
51 over that sum shall be paid to the individual stockholders.

52 Before, however, the said company shall be authorized to
53 execute the mortgage mentioned in this section, it shall
54 be their duty to prove to the satisfaction of the Board of
55 Internal Improvement, that the sum of two hundred thou-
56 sand dollars has been expended in re-constructing the said
57 railroad, and in the purchase of engines and cars; and
58 the same being made satisfactorily to appear to the said
59 Board of Internal Improvement, it shall be their duty,
60 and they are hereby required to give the said company a
61 certificate to that effect, which shall be their sufficient
62 warrant to mortgage the said road and its effects, as afore-
63 said.

III. *Be it enacted*, That it shall be lawful for the per-
2 sons mentioned in the first section of this act or any three
3 of them, to open books, under their own management, or
4 the direction of such other persons as they may select,
5 and at such times and places as they may think proper,
6 for the purpose of receiving subscriptions to the capital
7 stock of the said company, to the amount of four hun-
8 dred thousand dollars, in shares of one hundred dollars
9 each. The times and places for receiving subscriptions
10 shall be advertised in one or more newspapers in the
11 State, and the books shall be kept open for sixty days.
12 At the expiration of that time, all the books of subscrip-
13 tion shall be returned to the individuals first named at
14 Raleigh; and if it shall appear that four hundred thou-
15 sand dollars shall have been subscribed to the capital
16 stock of said company, by solvent subscribers, then the
17 books shall be closed; and if more than four hundred
18 thousand dollars shall have been subscribed, the same
19 shall be reduced to that sum in fair and equal proportions
20 to the number of shares subscribed for by each stockhold-
21 er. Preference shall be given to the stockholders and
22 obligors of the late Raleigh and Gaston Railroad Compa-
23 ny during the first sixty days in which books are to be
24 kept open, to subscribe all or any part of the said capital
25 stock of the said company; and if, upon the return of
26 the said books, the said sum of four hundred thousand
27 dollars shall not have been subscribed, then said books
28 shall be re-opened for sixty days at such time and places,
29 and under the direction of such commissioners as any
30 three of the persons named in the first section of this act
31 shall designate; and if the capital stock aforesaid shall
32 not have been subscribed at the expiration of the said
33 sixty days, it shall be lawful to re-open said books, and
34 keep them open until the same shall be subscribed.

IV. *Be it enacted*, That whenever the said sum of 2 four hundred thousand dollars shall have been subscribed 3 by solvent individuals, public notice of that event shall 4 be given by any three or more of the said commissioners, 5 who shall have power to call a general meeting of the 6 subscribers, at such convenient time and place as they 7 shall name in said notice. To constitute any such meet- 8 ing, a number of persons owning a majority of the shares 9 of stock held by individuals in said company, shall be 10 present either in person or by proxy; and if a sufficient 11 number to constitute a meeting do not attend on the day 12 appointed, those who do attend, shall have power to ad- 13 journ from time to time, until a meeting shall be formed.

V. *Be it enacted*, That the State of North Carolina 2 shall be entitled to three directors in the said company, 3 to be annually appointed by the Board of Internal Im- 4 provement; and, at the first meeting of said company, 5 and annually thereafter, the said individual stockholders 6 shall have power and authority to elect four directors, 7 who, with the directors on the part of the State, shall 8 have power to elect a President out of their own body, to 9 manage all the affairs of the said company, and who shall 10 continue in office until their successors shall have been 11 elected. The President, with any three or more of the 12 Directors, or in the absence of the President, any four of 13 the Directors, who shall appoint one of their own body 14 President pro tem., shall constitute a board for the transac- 15 tion of business. In case of vacancy in the office of Pre- 16 sident or any Director, from death, resignation or other- 17 wise, such vacancy shall be supplied by appointment of 18 the board, until the next annual meeting.

VI. *Be it enacted*, That the said President and Di- 2 rectors shall have full power and authority to contract for 3 all works which may be necessary and expedient, and to 4 make contracts with any person or persons on behalf of 5 the said company, for re constructing the said road, and 6 performing all other works which from time to time may 7 be necessary for the proper completion and repairs of the 8 said road; to require from the individual subscribers, from 9 time to time, such advances of money on their respective 10 shares as the wants of the company may demand, until 11 the whole of their subscriptions shall be advanced, if the 12 whole shall be found necessary; to call on any emergen- 13 cy a general meeting of the stockholders, giving one 14 month's previous notice thereof, in one or more newspa- 15 pers; to appoint a treasurer, clerk, and such other offi-

cers as they may require ; and generally to transact all the necessary business of the company, during the intervals between the general meetings of the company.

VII. *Be it enacted*, That if any stockholder shall fail to pay the sum required of him by the President and Directors, within one month after the same shall have been advertised in one or more convenient newspapers, it shall and may be lawful for the said President and Directors to sell at public auction, and to convey to the purchaser the share or shares of such stockholder so failing, giving one month's previous notice of the time and place of sale in manner aforesaid ; and, after retaining the sum due and charges of sale out of the proceeds thereof, to pay the surplus, if any, to the owner or his legal representative ; and if the said sale shall not produce the sum required to be advanced, with the incidental charges attending the sale, then the said President and Directors may recover the balance of the original subscriber or his assignee, or the executor or administrator of either of them, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county of which he is a resident ; and any purchaser of the stock of the company under such sale, shall be subject to the same rules and regulations as the original proprietor. It shall, nevertheless, be lawful for the said President and Directors, if they deem it expedient, instead of selling the stock of delinquent subscribers, as contemplated by this section, to recover such sums as may be due the said company from delinquent subscribers, by suit in any court of record having jurisdiction thereof, or by warrant before any justice of the peace of the county in which such delinquent stockholder is a resident.

VIII. *Be it enacted*, That the said railroad, and all engines, cars, and vehicles, and all the works of said company, together with all profits which shall accrue from the same, shall be vested in the said company, one half thereof to the use and benefit of the State, and the other half to the use and benefit of the individual stockholders ; and the same shall be deemed and held to be personal estate, and shall be exempt from any public charge or tax whatsoever for the term of fifteen years ; and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum on each share of the capital stock held by individuals, whenever the annual profits shall exceed eight per cent.

IX. *Be it enacted*, That the said company shall give

2 no undue preference to the property of one person over
3 that of another, but as far as practicable, shall transport
4 each in the order of time in which it shall be delivered
5 or offered for transportation, the tolls thereon being first
6 paid or tendered. And it shall be lawful for them to
7 charge for the transportation of persons, goods, produce
8 and merchandize, and for the mail, any sum not exceed-
9 ing the following rates : On persons, not exceeding six
10 cents per mile for each person, unless the distance which
11 any person may be transported should be less than ten
12 miles, in which case an extra charge of fifty cents may
13 be made for taking up and putting down such person ;
14 for the transportation of produce, goods, wares, merchan-
15 dize and other articles, not exceeding an average of eight
16 cents per ton per mile ; and for the transportation of the
17 mail, such sum as may be agreed upon between the com-
18 pany and the Post Office Department of the United States.

X. *Be it enacted*, That in all general meetings of the
2 said company, each stockholder shall be entitled to give
3 one vote for each share not exceeding ten shares, and one
4 vote for every three shares above ten shares ; and it shall
5 be lawful for the Board of Internal Improvement to ap-
6 point some suitable person to represent the interest of the
7 State in all such meetings, who shall have a right to vote
8 on all questions coming before them, except in the elec-
9 tion of the directors to be appointed by the individual
10 stockholders.

XI. *Be it further enacted*, That an annual meeting of
2 the subscribers to the stock of the said company shall be
3 held at such time and place, in each year, as the stock-
4 holders, at their first general, or at any subsequent meet-
5 ing, may appoint ; to constitute which, or any general
6 meeting called by the President and Directors, according
7 to the provisions of this act, the presence of proprietors
8 entitled to a majority of all the votes which could be given
9 by all the stockholders, shall be necessary, either in per-
10 son or by proxy properly authorised ; and if a sufficient
11 number do not attend on that day, or any day appointed
12 for a general meeting called by the directors aforesaid,
13 the proprietors who do attend may adjourn from time to
14 time until such general meeting shall be had.

XII. *Be it further enacted*, That the President and
2 Directors shall render distinct accounts of their proceed-
3 ings and disbursements of money to the annual meeting
4 of the stockholders.

XIII. *Be it further enacted*, That the President and

2 Directors shall cause to be printed certificates of the
 3 shares of the stock in the said company, and shall deliv-
 4 er one such certificate, signed by the President, and coun-
 5 tersigned by the Treasurer, to each person for the num-
 6 ber of shares subscribed by him, which certificate shall
 7 be transferable by him, subject however, to all payments
 8 due or to become due thereon; and such assignee, hav-
 9 ing first caused the transfer or assignment to be entered
 10 in a book of the Company, to be kept for the purpose,
 11 shall thenceforth become a member of the company a-
 12 foresaid, and shall be liable to pay all sums due or to be-
 13 come due upon the stock assigned him. *Provided how-*
 14 *ever,* that such assignment shall in no wise exempt the
 15 assignor or his representative from their liability to the
 16 said company for the payment of all such sums, if the
 17 assignee or his representative shall be unable or fail to
 18 pay the same.

XIV. *Be it further enacted,* That if any person or
 2 persons shall wilfully, by any means whatever, impede
 3 or hinder the construction of, injure, impair, or destroy
 4 any part of the Railroad to be constructed under this act,
 5 or any of the necessary works, machines, wagons, vehi-
 6 cles, carriages, or other property belonging to the said
 7 company, or shall place any obstruction on said road,
 8 such person or persons shall be deemed guilty of a mis-
 9 demeanor and on conviction thereof in the Court of Pleas
 10 and Quarter Sessions, or Superior Court of Law of the
 11 County in which the offence may be committed, shall be
 12 fined and imprisoned at the discretion of the Court.

XV. *Be it further enacted,* That when the General
 2 Assembly may be of opinion that the Charter hereby
 3 granted shall have been violated, it may be lawful by joint
 4 resolution of the two houses, to direct the Attorney Gene-
 5 ral, with such assistant counsel as the Governor or Legis-
 6 lature may think proper to engage, to issue a writ of
 7 *scire facias*, returnable before the judges of the Supreme
 8 Court, calling upon the said corporation to show cause
 9 why their charter shall not be forfeited, subject to the
 10 same proceedings as are now prescribed by law in case of
 11 other corporations. Their books shall at all times be o-
 12 pen to the inspection of a committee of the General As-
 13 sembly appointed for that purpose; and the President of
 14 said company shall biennially make a report to the Leg-
 15 islature, on or before the third week of their Session, of
 16 their receipts and expenditures, and of such other of their
 17 proceedings as he shall deem proper.

XVI. *Be it further enacted*, That any Railroad which
2 may hereafter be constructed by the State, or by any com-
3 pany incorporated by the Legislature, shall be at liberty
4 to cross the road hereby allowed to be constructed, upon
5 a level or otherwise, as may be advantageous, provided
6 the free passage of the Raleigh and Gaston Railroad is
7 not thereby obstructed.

XVII. *Be it further enacted*, That whenever the Rail
2 Road shall be so crossed or approached by any other Rail
3 Road incorporated by this State, the said Raleigh
4 & Gaston Railroad Company may erect a depot at or
5 near the point of intersection, where they may receive
6 and deliver passengers and freight, and take therefor the
7 same rates of compensation, and be subject to the same
8 regulations as at other depots—and should they fail or
9 refuse to erect such depots, the State or Company owning
10 such intersecting road, may erect one, and the company
11 hereby incorporated shall receive and deliver passengers
12 and freight at such depots, under the same regulations as
13 aforesaid, unless the same shall be rendered impracticable
14 by the situation of the Railroad at that place.

XVIII. *Be it enacted*, That the profits of the said
2 Company shall be divided annually or semi-annually, at
3 the pleasure of the said Company, one half thereof to the
4 State of North Carolina, to be paid to the Public Treasu-
5 rer of the State, and the other half among the individual
6 Stockholders.

XIX. *Be it enacted*, That it shall be lawful for the said
2 President and Directors to sell the iron on the Raleigh
3 and Gaston Railroad, and apply the proceeds thereof to
4 the re-construction of said road.

XX. *Be it enacted*, That this Act shall be and con-
2 tinue in force for seventy five years, from and after its
3 ratification.

[SENATE Doc. 82.]

REPORT

OF THE

COMMITTEE

ON THE

LIBRARY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1859.

[Submitted by Mr. WASHINGTON, and ordered to be printed]

REPORT.

The Committee on the Library, to whom was referred a resolution authorizing Col. John H. Wheeler, of Lincoln County, "to borrow books from the Library of the State, and to make or cause to be made extracts from books and records in the Executive Departments," have had the same under consideration and recommend its adoption, with an amendment, limiting the operation of said resolution to one year.

The Committee were attended in person by Col. Wheeler, and were allowed to examine in manuscript his proposed work entitled "Sketches of North-Carolina," for the completion of which he desires the use of our Public Library and permission to make such extracts from such records and documents in our Executive Offices as he may find useful to him.

The Committee cannot but regard the work of Col. Wheeler, as a patriotic and praiseworthy effort to rescue from oblivion important facts in our early history, and to elevate the character and standing of his native State, and as such would cordially commend it to the favorable consideration not only of the Legislature but of the people of the State at large.

The author gives in the first series of his work, our history from the first landing of the Colonists on the coast of North Carolina, under Amedas and Barlow in 1584; under the patronage of Sir Walter Raleigh, with a list of the Governors Proprietary and Regal to the Revolution of 1776.

In the second series he gives the Governors, Judges and Executive officers from 1776 to the present time, with sketches of the press of the State to the present day; with an account of our Literary and Public Institutions and a list of the names of all our members of Congress from the commencement of the present form of government to this date.

In the third series he gives the history of each county in the State in alphabetical order; the date of its erection, the origin of its name, its boundaries, towns and survey, with short sketches of its distinguished citizens, and an accurate list of the Members of the General Assembly, from each and every county of the State, from the formation of the Consti-

tution in 1776, or the erection of such county, to the present Session; thus embracing in his work a mass of information, alike interesting, useful and instructive and greatly deserving the approbation and patronage of every patriotic citizen of the State.

It is believed by the committee that it was on the coast of North Carolina, and on the 4th day of July, 1584, that the first Anglo Saxon put his foot on soil embraced within the borders of the United States. The early history of the State is full of incidents of chivalric daring and indomitable resistance "to every form of tyranny that can oppress the mind of man;" yet how little of that history is known to the world! In the language of one of our historians, "the archives of the State and the desks of ancient families now bury the story of the rise and progress of the State of North Carolina. Ignorance and wickedness may misrepresent the character of her history, if efforts are not made to break away the darkness that surrounds it." The work of Col. Wheeler is a laudable undertaking to do this and presents much of our history hitherto but little known.

Your committee are of opinion that the author, Col. Wheeler, should be encouraged not only by having the facilities afforded him which are asked in the Resolution referred to them, but also, by the purchase, when the work shall have been completed, of a number of copies thereof, for the use of the State Library.

All of which is respectfully submitted,

WM. H. WASHINGTON,

Chairman of the Committee.

[HOUSE Doc. 83.]

A BILL

CONCERNING THE

RALEIGH AND GASTON

Rail Road.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

HOUSE COMMONS, December 20, 1850.

[Introduced by Mr. RAYNER. Read 1st time and passed, and referred to select committee of five, raised on the Raleigh & Gaston Railroad, and ordered to be printed.]

A BILL
CONCERNING
THE RALEIGH AND GASTON RAIL ROAD.

WHEREAS, the condition of the Road known as the Raleigh and Gaston Rail Road, is such, as to render extensive repairs absolutely necessary, for its preservation and the protection of the interest of the State therein; and it is desirable that such repairs should be made without a further appropriation of the funds of the State for that purpose: Therefore,

1. *Be it enacted by the General Assembly of the State of North Carolina and it is hereby enacted by the authority of the same, That* Duncan Cameron, Wm. Boylan, George W. Mordecai, and Richard Smith of the City of Raleigh,—John D. Hawkins of the county of Franklin—John S. Eaton and Thomas Miller of the county of Granville—Weldon N. Edwards and George D. Baskerville of the county of Warren—and Edmund Wilkins of the county of Northampton, with their associates, be, and they are hereby constituted and declared a body politic and corporate, under the name and style of the Raleigh and Roanoke Rail Road Company; and by that name shall be capable of enjoying all the rights, privileges and immunities, which were conferred, and be subject to all the rules, regulations, and restrictions which were imposed on the Raleigh and Gaston Rail Road Company, by the act of the General Assembly, passed in the year 1835, incorporating said Company; but shall in no case be liable for any of the debts, contracts, or enjoy-

20 ments, entered into by said Raleigh and Gaston Rail
21 Road Company, while the same was in existence.

II. *Be it further enacted*, That the capital stock of
2 said company shall be a sum not exceeding eight hun-
3 dred thousand dollars, one half of which shall be owned
4 by the State of North Carolina, and the other half by in-
5 dividuals as hereinafter provided; and that of the above
6 capital, the present Raleigh and Gaston Rail Road, with
7 all its depots, engines, cars, and fixtures of every kind and
8 description, shall constitute one half of said Road, to be
9 owned by the State, and the other half by individual
10 stockholders, upon their complying with the terms and
11 conditions hereinafter contained and set forth.

III. *Be it further enacted*, That for the purpose of
2 raising the sum necessary for the repairing of said road,
3 by individual subscribers, books of subscription for stock,
4 in shares of one hundred dollars each, shall be opened at
5 such times and places, and under the direction of such
6 persons as the said Duncan Cameron, William Boylan,
7 Richard Smith, George W. Mordecai, John D. Hawkins,
8 John S. Eaton, Thomas Miller, Weldon N. Edwards,
9 William J. Hawkins, and Edmund Wilkins, or a majority
10 of them, shall direct; and whenever the sum of four hun-
11 dred thousand dollars shall have been subscribed, the
12 Governor of this State shall be and he is hereby author-
13 ized and directed to transfer and assign to the said Ral-
14 eigh and Roanoke Rail Road Company, all the right,
15 title, and interest of the State in, and to the said Raleigh
16 and Gaston Rail Road—one half of which shall be own-
17 ed by the State, and the other half by the individual
18 stockholders, as hereinbefore provided for.

IV. That in the receiving of subscriptions as afore-
2 said, a preference shall in the first place be given to those
3 who were stockholders in, or obligors for, the Raleigh
4 and Gaston Rail Road Company, their legal representa-
5 tives or assignees, provided such persons claim the priv-
6 ilege of subscribing to the same within thirty days after
7 the opening of the books; and provided further, that such
8 subscription shall first be in proportion to the amount of
9 stock held by said stockholders in, or sums guarantied by
10 the obligors for, the said Raleigh and Gaston Rail Road
11 Company, their legal representatives or assignees; and
12 after the expiration of the said thirty days, if the whole of
13 the said four hundred thousand dollars shall not have
14 been subscribed, then the said stockholders and obligors,

15 their legal representatives and assignees may be permit-
16 ted to subscribe for such part of said sum as may not have
17 been subscribed, in the same proportion as before provi-
18 ded for; and if the whole of the said four hundred thou-
19 sand dollars shall not be subscribed by the said stock-
20 holders, obligors, their representatives and assignees, at
21 the expiration of ninety days from the first opening of
22 the books, then other individuals shall and may be per-
23 mitted to subscribe for such part thereof as may remain
24 to be subscribed for.

V. *Be it further enacted*, That when the four hundred
2 thousand dollars shall have been subscribed as aforesaid,
3 public notice thereof shall be given by the said Duncan
4 Cameron, William Boylan, George W. Mordecai, John
5 D. Hawkins, Weldon N. Edwards, William J. Hawkins,
6 Thomas Miller, John S. Eaton, Edmund Wilkins, or a
7 majority of them, who shall have power at the same time
8 to call a general meeting of the said individual subscri-
9 bers at such convenient place and time as they shall name
10 in said notice; to constitute any such meeting, a number of
11 persons entitled to a majority of all the votes which could
12 be given on all shares subscribed, shall be present either
13 in person or by proxy; and if a sufficient number to
14 constitute a meeting do not attend on that day, those who
15 do attend, shall have power to adjourn from time to time,
16 until a meeting shall be formed.

VI. *Be it further enacted*, That the subscribers, at
2 their general meeting before directed, and the proprietors
3 of stock, at every annual meeting thereafter, shall elect a
4 President and three Directors, who, together with the two
5 Directors to be appointed for and on behalf of the State,
6 shall continue in office, unless sooner removed, until the
7 next annual meeting after their election, and until their
8 successors shall be elected; but the President or any of
9 the Directors may, at any time, be removed, and the va-
10 cancy thereby occasioned, be filled by a majority of the
11 votes given at any general meeting. The President, with
12 any two or more of the directors, or, in the event of the
13 sickness, absence, or disability of the President, any three
14 or more of the directors, who shall appoint one of their
15 own body president *pro tempore*, shall constitute a board
16 for the transaction of business: in case of vacancy in
17 the office of president or any director, happening from
18 death, resignation, removal or disability, such vacancy
19 may be supplied by appointment of the board until the

20 next annual meeting—and the President and Directors of
21 said company shall be, and they are hereby invested,
22 with all the rights, powers, privileges and immunities,
23 and be subject to all the rules, regulations and restrictions,
24 which were imposed on the President and Directors of the
25 Raleigh and Gaston Railroad Company, by the act of the
26 General Assembly, passed in the year 1835, incorpora-
27 ting said company, subject however, to the limitations
28 and conditions that may be imposed by this act.

VII. *Be it further enacted*, That the State shall be
2 entitled to have two of the directors in said board, who
3 shall be appointed annually by the Governor, Treasurer
4 and Comptroller, or a majority of them.

VIII. *Be it further enacted*, That an annual meeting
2 of the individual stockholders in the said company, shall
3 be held at such time and place, in each year, as the said
4 stockholders at their first general or any subsequent
5 meeting may appoint; to constitute which, or any general
6 meeting called by the President and Directors, according
7 to the provisions of this act, the presence of the proprie-
8 tors, entitled to a majority of all the votes which could be
9 given by all the individual stockholders, shall be necessa-
10 ry, either in person or by proxy, properly authorized—
11 and the said individual stockholders, in general meeting
12 assembled, shall be, and they are hereby invested, with
13 all the rights, powers, privileges and immunities, and be
14 subject to all the rules, regulations and restrictions, which
15 were imposed on the stockholders in the Raleigh and
16 Gaston Railroad Company, by the aforesaid act of the
17 General Assembly, passed in the year 1835, incorporating
18 the same, subject however to the limitations and condi-
19 tions which may be imposed by this act.

IX. *Be it further enacted*, That in making the repairs
2 of said road, it shall be entirely re-laid with a heavy iron
3 rail, weighing not less than fifty pounds to the yard—the
4 bridges and superstructure of said road shall be thorough-
5 ly repaired, and every part thereof, together with the en-
6 gines, cars and coaches, shall be put in complete running
7 order.

X. *Be it further enacted*, That the repairs hereby
2 provided for on said road, shall be executed with dili-
3 gence; and if they be not commenced within two years
4 after the passage of this act, then this charter shall be
5 forfeited.

XI. *Be it further enacted*, That the said individual

2 subscribers shall be required to pay one hundred and
3 fifty thousand dollars of said four hundred thousand sub-
4 scribed as aforesaid, in cash, in instalments of such sums
5 and at such times, as may be required by the President
6 and Directors of said company; and for the purpose of
7 raising the additional two hundred and fifty thousand
8 dollars so subscribed, it shall and may be lawful for the
9 President and directors of said company, by and with the
10 consent of the individual stockholders, (to be signified by
11 their vote in general meeting,) to mortgage the said road,
12 with all its fixtures, which shall constitute a lien upon
13 the whole of the property of said company in said road,
14 with its appurtenances, until the principal and interest
15 thereof shall be fully paid; and for the purpose of pay-
16 ing the interest thereon regularly, the whole receipts of
17 the said company from said road, over and above a suffi-
18 cient sum to pay the current expenses of the same, shall
19 be, and are hereby pledged, and no dividend of profit
20 shall be declared to the State, or to the individual stock-
21 holders, until the said interest shall have been first regu-
22 larly paid.

XII. *Be it further enacted*, That whenever four hun-
2 dred thousand dollars shall have been subscribed by in-
3 dividuals, as before provided, and applied to the repairing
4 of the said road, in the manner hereinbefore directed, a
5 certificate of the same being first made by the President
6 and Treasurer of said Raleigh and Roanoke Railroad
7 Company, under the seal of the said company, the At-
8 torney General of the State for the time being, shall be,
9 and he is hereby directed to dismiss all proceedings both
10 at law and in equity, against the stockholders in, and ob-
11 ligors for, the Raleigh and Gaston Railroad Company,
12 and to surrender to them their bonds and release them
13 from all liability under the same, upon the payment by
14 said stockholders or obligors of the costs incurred in the
15 prosecution of said suits: *Provided however*, that as a
16 further condition on which the said stockholders, obli-
17 gors, their legal representatives, &c., shall receive the
18 benefit of the provisions of this section, they shall sub-
19 scribe to the stock of the Seaboard and Roanoke Railroad
20 Company fifty thousand dollars, towards the construction
21 of a railroad from some point on the Wilmington and
22 Raleigh Railroad near Weldon, to some point on the said
23 Raleigh and Roanoke Railroad near Gaston, in case the
24 said Seaboard and Roanoke Railroad Company shall so

25 extend their road, as to make the connection between the
26 said Wilmington and Raleigh and Seaboard and Roan-
27 oke Railroad; the evidence of such compliance with this
28 provision on the part of said individual subscribers, to be
29 a certificate of the Seaboard and Roanoke Railroad Com-
30 pany, under their seal, that the individual subscribers
31 have made such subscription to the stock of their com-
32 pany.

XIII *Be it further enacted*, That for the purpose of
2 giving said stockholders, obligors, their legal representa-
3 tives and assignees, sufficient time to avail themselves of
4 the provisions of this act, the Attorney General of the
5 State is hereby instructed to suspend all proceedings in
6 the suits now pending against them, for the space of two
7 years.

XIV. *Be it further enacted*, That the corporate powers
2 herein granted shall be and enure for ninety years, and
3 no longer, unless renewed by competent authority.

[House Doc. 85.]

A BILL

TO

INCORPORATE

THE

MILTON SAVINGS

INSTITUTION.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

[This substitute for the Bill reported by Committee, is adopted. Read second time and on motion of Mr. S. J. Person, ordered to be printed and laid on the table.]

A BILL

To incorporate the Milton Savings Institution.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same, That John Wilson, Samuel Watkins, John T. Garland, John B. Barrett, James D. Newson, Willie Jones, N. J. Palmer, Montfort McGehee, Caleb H. Richmond, George A. Smith, Samuel B. Holder, Charles K. Dodson, George W. Thompson, Martin P. Huntington, Edward P. Hawks, Dabney Terry, and all and every other person or persons hereafter becoming members of the Milton Savings Institution, to be located in the town of Milton in the county of Caswell, shall be and are hereby created and made a corporation and body politic, by the name and style of the Milton Savings Institution, and by that name shall have succession, and be capable by law, to hold and dispose of real and personal property by deed or otherwise, to sue and be sued, plead and be impleaded, answer and defend, and be answered and defended, in Courts of Law and Equity, or in any other places whatsoever; and to receive and make all deeds, transfers, contracts, conveyances and grants whatsoever; and to make, have and use a common seal, and the same to change and renew at pleasure; and generally to do every other act or thing necessary to carry into effect the provisions of this act: Provided, the said corporation shall purchase and hold only such lands, tenements, rents and hereditaments as shall be requisite for the convenient transaction of its business, or shall have been bona fide mortgaged to it by way of security, or conveyed to it in satisfaction of debts previously contracted in the course of its dealings, or purchased at sales upon judgments which shall have been obtained for such debts.*

II. *And be it further enacted,* That there shall be a
2 meeting of the members of the Milton Savings Institu-
3 tion on such day in the month of April next, or at any
4 other time, and at such place as the nine persons first
5 above named, or any three of them, shall appoint; and
6 give at least ten days' notice in some one or more newspa-
7 pers published in Milton, and on the second Monday in
8 January, and at such place annually thereafter as the by-
9 laws of said Institution shall provide, for the purpose of
10 choosing, among the members, eight Directors, to manage
11 the affairs of said Institution for twelve months thereaf-
12 ter, and until a new election shall take place; *Provided,*
13 that each election shall be made within one month from
14 the expiration of the term for which the preceding Di-
15 rectors shall have been elected; and the three members
16 first above named, or upon their refusal or neglect to act,
17 any three named in this act, shall be judges of the first
18 election of Directors, and the judges of all future elec-
19 tions, shall be appointed and notice of such election given
20 in such manner as the by-laws shall provide.

III. *And be it further enacted,* That the Directors for
2 the time being, or a majority of them, shall have power
3 to elect a President from their own body, or from among
4 the other members; to appoint all such officers, agents
5 and servants, as they shall deem necessary to conduct or
6 expedite the business of the said Institution; to fix their
7 compensation, and in their discretion to dismiss them; to
8 provide for the taking of bonds to said Institution from all
9 or any of the officers, agents, or servants by them so ap-
10 pointed, with security conditioned in such form as they
11 shall prescribe for the faithful execution of their several
12 duties, and to secure the corporation from loss; to regu-
13 late the manner of making and receiving deposits, the
14 form of certificates to be issued to depositors, and the
15 manner of transferring stock in said Institution; to provide
16 for the investment of the funds of the corporation in

17 such manner as they shall deem most safe and beneficial;
18 to provide for the admission of members, and furnishing
19 proof of such admission; to provide for paying all neces-
20 sary expenses incurred in conducting the affairs of the
21 corporation, and generally to pass all such by-laws, as
22 shall or may be necessary to the exercise of the said pow-
23 ers, and of the powers vested in said corporation by this
24 charter, and the same by-laws to alter and repeal; pro-
25 vided, that all such by-laws as may be made by the direc-
26 tors, may be altered and repealed by a majority of the
27 members of said corporation, assembled at any annual
28 meeting or of any general meeting, called in pursuance
29 of any by-law made for that purpose; and a majority of
30 the members may at any general or annual meeting, pass
31 by-laws, which shall be binding upon the Directors; pro-
32 vided, that such by-laws, shall not be contrary to the
33 laws of this State or of the United States.

IV. *And be it further enacted*, That said corporation
2 shall be capable of receiving from any person or persons,
3 or bodies corporate or politic, any deposit or deposits
4 of money; and that all moneys so received shall be in-
5 vested in public stocks or other securities, at the discre-
6 tion of the directors, in the manner by them deemed most
7 safe and beneficial: *Provided*, that no part of the funds of
8 said Institution shall be loaned to any officer or Director
9 of said Institution; and *provided always*, that nothing
10 herein contained shall be construed to authorize this cor-
11 poration to issue any bill, note, or other device, in the
12 nature of a bank note.

V. *And be it further enacted*, That such deposits shall
2 be repaid to each depositor, when required, at such times
3 and with such interest and under such regulations, as the
4 board of managers shall from time to time prescribe;
5 which regulations shall not be altered so as to effect any
6 one who may have been a depositor previous to such alter-
7 ation; and all certificates or evidences of deposit made by

8 the proper officer shall be as effectual to bind the corpo-
9 ration as if they were under the common seal thereof.

VI. *And be it further enacted,* That when any deposite
2 shall be made by any person being a minor, the said cor-
3 poration may pay to such depositor such sum or sums as
4 may be due to him or her, at their discretion, not exceed-
5 ing two hundred and fifty dollars, although no guardian
6 shall have been appointed for such minor, and the receipt
7 or acquittance of such minor shall be as valid as if the
8 same were executed by a guardian of such minor.

VII. *And be it further enacted,* That it shall be the
2 duty of the Directors, at least once in every six months,
3 to appoint five competent members of said corporation as
4 a committee of examination, whose duty it shall be to
5 investigate the affairs of said corporation, and to make
6 and publish a report thereof, in one or more newspapers
7 printed in Milton or in the State; and it shall be the duty
8 of the Directors, on the first day of January and first
9 day of July, in each and every year, to make and declare
10 a dividend of the interests and profits of the said corpo-
11 ration, after paying its expenses, and the same to pay
12 over unto the depositors or their legal representatives,
13 within ten days thereafter, if called on.

VIII. *And be it further enacted,* That no stockholder
2 who is a debtor to this Institution shall be permitted to
3 transfer his stock until such debt be paid or otherwise se-
4 cured to the satisfaction of the Directors.

IX. *And be it further enacted,* That in all discounts or
2 loans to be made by said corporation, it shall not take
3 more than six per cent. per annum; which interest shall be
4 taken in advance at the time of discount.

X. *And be it further enacted,* That the concerns of
2 the Institution hereby intended to be incorporated shall
3 at all times be subject to the inspection of the Treasurer
4 of the State, or of such other officer or agent of the
5 State as may be selected for that purpose by the General
6 Assembly.

XI. *And be it further enacted,* That the capital stock
2 of said corporation shall not exceed the sum of two hun-
3 dred and fifty thousand dollars, until an additional capital
4 is authorized by the General Assembly, and that the pow-
5 er is hereby reserved to the General Assembly from and
6 after the year eighteen hundred and seventy, to dissolve
7 said corporation.

[HOUSE Doc. 86.]

REPORT

OF

THE COMMITTEE ON FINANCE.

The Committee on Finance, to whom was referred "A Bill to facilitate the collection of the Public Revenue and economise the mode thereof," have had the same under consideration, and report the bill back to the House with the recommendation that it do pass.

[HOUSE Doc. 86.]

A BILL

TO

FACILITATE THE COLLECTION

OF THE

PUBLIC REVENUE

AND

ECONOMIZE THE MODE THEREOF.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

Nov. 30 1850.

[Introduced by Mr. J. B. GORDON. Read first time and passed, and referred to Committee on Finance.]

Dec. 27, 1850.

[Read second time and on motion of Mr. S. J. Person, laid on the table and ordered to be printed.]

A BILL

To facilitate the collection of the Public Revenue and economize the mode thereof.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall be the duty of the Clerks of the several County Courts in this State to make the return of the list of taxable property in their counties to the comptroller, on or before the first day of September in each and every year; including in said list the returns now by law to be made to them by the several Sheriffs of their counties, of the amount received from taxes imposed on merchants, retailers of spiritous liquors, stage players, sleight of hand performers, rope dancers, circus riders, equestrian performers, and all exhibitors of natural and artificial curiosities, and from all other sources of revenue now by law established.

II. *Be it further enacted,* That the several Clerks of the County Courts, shall have the same power to administer oaths to the several Sheriffs, as by law now the Comptroller has, and also to make the same allowances for insolvents, and it shall be the duty of the Clerks, also to transmit the revenue of the Sheriff, and the sureties to his bond for the collection of Public Taxes, and his nearest and usual place of residence; and the nearest Bank either of the State, Bank of Cape Fear, or other safe and solvent Institutions.

III. *And be it further enacted,* That it shall be the duty of the Comptroller to make up the accounts of said Sheriffs, from said list as by law he is now required to do; and report the same to the Treasurer, and transmit a duplicate of the same to the Sheriff whose accounts he has comptrolled and settled, and it shall be the duty of the Treasurer to direct said Sheriff to deposit the said

8 amount thus due, (without charge or expense to the
9 State) in the nearest Bank as the Treasurer may direct;
10 which deposit shall be made in the months of July, Au-
11 gust and September, in each and every year; and the
12 said Sheriff shall transmit to the Treasurer and Comp-
13 troller, duplicate certificates of said deposit, by mail or
14 some safe hand, which certificate shall be a discharge of
15 said Sheriff and his sureties for amount due the State,
16 and the Comptroller shall forthwith charge the Treasurer
17 the amount thus collected.

IV. *Be it further enacted*, That it shall be the duty
2 of the Treasurer when he shall receive from said Sher-
3 iff, the said certificates of deposit, to credit said Sheriff on
4 the Books of the Treasury, and transmit to him dupli-
5 cate receipts countersigned by the Comptroller for the
6 amount paid by said Sheriff.

V. *Be it further enacted*, That should any Sheriffs
2 fail to deposit the several amounts due and transmit cer-
3 tificates of the same, to Treasurer and Comptroller, on
4 or before the first day of November, in each and every
5 year, they shall be liable to the same fines and penalties,
6 that they are now liable by law, to be recovered in any
7 Superior Court of Law in this State, on motion of the
8 Public Treasurer.

VI. *Be it further enacted*, That all laws and clauses
2 of laws coming within the meaning and purview of this
3 act are hereby repealed.

[SENATE Doc. 87.]

A BILL

TO ESTABLISH

A NEW JUDICIAL DISTRICT

IN THE

State of North Carolina.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

SENATE, Dec. 28, 1850.

[Passed 1st reading, and ordered to be printed, and referred to
Committee on Judiciary.]

RAILROAD

Thomas J. Barry, Printer to the Senate

1850

A BILL

To establish a new Judicial District in the State of North Carolina.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter, the State shall be divided into eight judicial circuits; and the present General Assembly shall provide for said division, by designating the counties which shall be included in each of said circuits respectively; and shall fix the times for holding the several Superior Courts of law and Equity therein.

II. *Be it further enacted,* That the arrangement and division of the State into eight judicial circuits, as directed by the first section of this act, shall only extend to the superior courts of law and equity, and said superior courts of law and equity shall be held in the several counties, at the several times that may be hereafter designated by the Judges thereof, now in office, and by one additional Judge of the said courts, to be appointed by virtue of this act, and their successors in office.

III. *Be it further enacted,* That there shall be elected, by the joint vote of the two Houses of the present General Assembly, one Judge, in addition to the number of Judges of the superior courts of law and equity now in office, who shall be entitled to receive the same salary as the Judges of said courts have heretofore been allowed, and shall have and exercise the same power and authority, rights and privileges, as the present Judges of said courts have and exercise.

IV. *Be it further enacted,* That the several Solicitors of the superior courts of law, now in office, shall be assigned to the circuits in which they respectively reside, as follows, viz: George S. Stephenson shall be the Solicitor of the circuit; W. N. H. Smith, shall be the Solicitor of the circuit; Robert Strange, shall be the Solicitor of the circuit; the Attorney General, B. F. Moore, shall be the Solicitor of the circuit; Cadwallader Jones, Jun., shall be the Solicitor of the circuit; Daniel Coleman, shall be the Solicitor of the circuit; Burgess S. Gaither, shall be the Solicitor of the circuit.

13 cuit; and there shall be elected by the joint vote of the
 14 two Houses of this General Assembly, one other Solicitor
 15 of said courts in addition to those now in office, who shall
 16 be assigned to, and be Solicitor for, the circuit;
 17 and said Solicitor, when so elected, shall be allowed to re-
 18 ceive the same salary and fees, and shall hold his office
 19 for the same time, and shall have and exercise the same
 20 power and authority, rights and privileges, as the present
 21 Solicitors of said courts.

V. *Be it farther enacted*, That this act shall be in
 2 force and take effect from and after the day of
 3 next.

VI. *Be it further enacted*, That all laws and clauses
 2 of laws coming in conflict with the provisions of this
 3 act, be, and the same is hereby repealed.

[HOUSE Doc. 88.]

REPORT

OF

THE COMMITTEE

ON

INTERNAL IMPROVEMENTS,

ON THE

BILL TO INCORPORATE

THE ROANOKE VALLEY RAILROAD

COMPANY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

REPORT

The Committee on Internal Improvements to whom was referred the bill to incorporate the Roanoke Valley Railroad Company, have considered the same, and have instructed the undersigned to report the bill back to the House with certain amendments, and, with such amendments, to recommend its passage.

K. RAYNER, *Chairman,*

A BILL

TO

INCORPORATE

THE

ROANOKE VALLEY RAILROAD

COMPANY.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

A BILL

Dec. 14th, 1850.

[Introduced by Mr. EATON. Read 1st time and passed, and on, motion of Mr. Eaton, referred to Committee on Internal Improvements.]

Dec. 23rd, 1850.

[Read 2nd time, amended, on motion of Messrs. Rayner and Eaton, and laid on the table, and ordered to be printed.]

IN CONJUNCTION

THE

ROCKY MOUNTAIN VALLEY RAILROAD

COMPANY.

RAILROAD

That the same be referred to the Committee on Internal Improvements.

1850.

A BILL.

To incorporate the Roanoke Valley Railroad Company.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That for the purpose of constructing a Railroad from some point on the Virginia line, in the neighborhood of the town of Clarksville, Virginia, to the Raleigh and Gaston Railroad, to connect with the same in the vicinity of Ridgeway, in this State, the formation of a corporate company, with a capital stock of three hundred thousand dollars, is hereby authorized, to be called the Roanoke Valley Railroad Company; and when formed in compliance with the conditions hereinafter prescribed, to have a corporate existence as a body politic for ninety-nine years.

II. That for the purpose of erecting the capital stock of said company, the following persons be, and the same are hereby appointed commissioners, viz. George D. Baskerville, Andrew Joyner, James M. Bullock, John S. Eaton, Wm. Eaton jr. F. A. Thornton, William Hargrave, John G. Yancey, Weldon N. Edwards, Edmund Townes, Robert B. Gilliam, Robt. W. Lasiter, David Shelton, Edwin A. Williams, Tucker Carrington, G. C. Scott, Robt. H. Moss, Wm. Townes, John Wimbish, Silas H. Harris, and Henry Wood, or any three of them, whose duty it shall be to open books for the subscription of stock, at such times and places, and under the direction of such persons as they, or a majority of them, may deem proper, to an amount not exceeding three hundred thousand dollars, in shares of one hundred dollars each.

III. When five hundred shares shall be subscribed for, in manner aforesaid, the subscribers, their executors administrators, or assigns, shall be, and they are hereby

4 declared to be incorporated into a company, by the name
5 and style of "The Roanoke Valley Railroad Company;"
6 and by that name shall be capable in law of purchasing,
7 holding, selling, leasing, and conveying estate, real and
8 personal, and mixed, so far as shall be necessary for the
9 purposes hereinafter mentioned, and no farther; and shall
10 have perpetual succession, and by said corporate name
11 may sue and be sued, and may have and use a common
12 seal, which they shall have power to alter or renew at
13 their pleasure; and shall have and enjoy, and may ex-
14 ercise all the powers, rights and privileges, which other
15 corporate bodies may lawfully do, for the purposes men-
16 tioned in this act; and may make all such by-laws,
17 rules and regulations, not inconsistent with the laws of
18 this State, or the United States, as shall be necessary for
19 well ordering and conducting the affairs of the Com-
20 pany.

IV. Upon any subscription of stock as aforesaid, there
2 shall be paid at the time of subscribing to the said com-
3 missioners, or their agents appointed to receive such sub-
4 scription, the sum of two dollars on every share subscrib-
5 ed, and the residue thereof shall be paid in such instal-
6 ments, and at such times as may be required by the Pres-
7 ident and Directors of said Company; the said commis-
8 sioners or their agents shall forthwith after the first elec-
9 tion of President and Directors of the Company, pay
10 over to the said President and Directors all monies receiv-
11 ed by them; and on failure thereof, the said President
12 and Directors may recover the amount due from them, or
13 from any one or more of them, by motion on ten days
14 previous notice, in the County Court of Pleas and Quar-
15 ter Sessions, or the Superior Court of Law, of any coun-
16 ty wherein such commissioner or commissioners, their
17 executors or administrators, may reside, or by warrant
18 before a Justice of said county.

V. When five hundred shares or more shall have been
2 subscribed, public notice of that event shall be given by

3 three or more of the said commissioners, who shall have
4 power at the same time to call a general meeting of the
5 subscribers, at such convenient place and time as they
6 shall name in said notice. To constitute any such meet-
7 ing, a number of persons, entitled to a majority of all the
8 votes which could be given upon all shares subscribed,
9 shall be present, either in person or by proxy; and if a
10 sufficient number to constitute a meeting do not attend
11 on that day, those who do attend shall have power to ad-
12 journ from time to time, until a meeting shall be formed.

VI. The subscribers, at their general meeting before di-
2 rected, and the proprietors, of stock at every annual
3 meeting thereafter, shall elect a President and five Di-
4 rectors, who shall continue in office, unless sooner re-
5 moved, until the next annual meeting after their election,
6 and until their successors shall be elected; but the Presi-
7 dent or any of the Directors may at any time be remov-
8 ed, and the vacancy thereby occasioned be filled by a ma-
9 jority of the votes given at any general meeting. The
10 President with any two or more of the directors, or in the
11 event of the sickness, absence or disability of the Presi-
12 dent, any three or more of the directors, who shall ap-
13 point one of their own body President pro tem., shall con-
14 stitute a board for the transaction of business. In case of
15 vacancy in the office of President or any director, hap-
16 pening from death, resignation, removal or disability, such
17 vacancy may be supplied by appointment of the board
18 until the next annual meeting.

VII. The President and Directors of the said company
2 shall be, and they are hereby invested with all the rights
3 and powers necessary for the construction, repair and
4 maintaining of a railroad to be located as aforesaid, with
5 as many sets of tracks as they, or a majority of them, may
6 deem necessary, and may cause to be made, and also to
7 make and continue all works whatever, which may be
8 necessary, and expedient, in order to the proper comple-
9 tion of said railroad.

VIII. The said President and Directors shall have pow-

2 er to make contracts, with any person or persons, on be-
3 half of the company; for making the said railroad, and
4 performing all other works respecting the same which
5 they shall judge necessary and proper, and to require
6 from the subscribers from time to time, such advances of
7 money, on their respective shares, as the wants of the
8 company may demand, until the whole of their subscrip-
9 tions shall be advanced; to call, on any emergency, a
10 general meeting of the subscribers, giving one months,
11 notice thereof in one of the news-papers printed in the
12 City of Raleigh; to appoint a Treasurer, Clerk, and such
13 other officers, as they may require, and to transact all the
14 business of the company during the intervals between the
15 general meetings of the stockholders.

IX. If any stockholder shall fail to pay the sum requir-
2 ed of him by the President and Directors, or by a majori-
3 ty of them, within one month after the same shall have been
4 advertised in one of the news-papers published in the
5 City of Raleigh, it shall and may be lawful for the Presi-
6 dent and Directors, or a majority of them, to sell at pub-
7 lic auction, and to convey to the purchaser, the share or
8 shares of such stockholders so failing or refusing, giving one
9 months previous notice of the time and place of such
10 sale, in manner aforesaid: and after retaining the sum
11 due, and all charges of the sale, out of the proceeds there-
12 of, to pay the surplus over to the former owner, or to his
13 legal representatives; and if the said sale shall not pro-
14 duce the sum required to be advanced, with the inciden-
15 tal charges attending the sale, then the President and
16 Directors may recover the balance of the original proprie-
17 tor, or his assignee, or the executor or administrator of
18 either of them, by suit in any court of record having ju-
19 risdiction thereof, or by warrant before a justice of the
20 county of which he is a resident; and any purchaser of
21 the stock of the company, under the sale by the President
22 and Directors, shall be subject to the same rules and reg-
23 ulations as the original proprietor.

X. *Be it further enacted*, That if the capital stock of

2 the company hereby incorporated shall be found insufficient
3 for the purpose of this act, it shall and may be lawful for
4 the President and Directors of the said Company, or a ma-
5 jority of them, from time to time, to increase the said cap-
6 ital stock to an amount not exceeding one million of
7 dollars, by the addition of as many shares as they may
8 deem necessary, first giving to the individual stockhol-
9 ders, for the time being, or their legal representatives, the
10 option of taking such additional shares, in proportion to
11 the amount of stock respectively held by them, and open-
12 ing books of subscription at such times and places as they
13 may appoint, and the subscribers for such additional
14 shares of the capital stock, in the said company, are here-
15 by declared to be thenceforward incorporated into the
16 said company with all the privileges and advantages and
17 subject to all the liabilities of the original stockholders.

XI. *Be it further enacted*, That the said President and
2 Directors, their officers, agents, and servants, shall have
3 full power and authority to enter upon all lands and ten-
4 ements, through which they may desire to conduct their
5 Railroad, and to lay out the same according to their plea-
6 sure, so that the dwelling house, kitchen, yard or garden
7 of no persons be invaded without his consent; and they
8 shall have power to enter on and lay out such contiguous
9 land, as they may desire to occupy as sites for depots, toll
10 houses, ware houses, engine sheds, workshops, water sta-
11 tions and other buildings; for the necessary accommoda-
12 tion of their officers, agents and servants, their horses,
13 mules and other cattle, and for the protection of the prop-
14 erty intrusted to their care; *Provided*, that the land so laid
15 out on the line of the railroad shall not exceed (except at
16 deep cuts and fillings,) eighty feet in width, and that the
17 adjoining lands for the sites of buildings, (unless the Pres-
18 ident and Directors can agree with the owner or owners
19 for the purchase of the same,) shall not exceed one and
20 a half acres in any one parcel. If the President and Di-
21 rectors cannot agree with the owner or owners of the land
22 so entered on and laid out by them, as to the terms of pur-

23 class, it shall be lawful for them to apply to the Court
24 of pleas and Quarter Sessions of the County in which
25 such land, or the greater part thereof, may lie, and upon
26 such application the Court shall appoint five disinterested
27 and impartial freeholders to assess the damage to the own-
28 er, from the condemnation of the land for the purpose
29 aforesaid. No such appointment, however, shall be made
30 unless ten days previous notice of the application shall
31 have been given to the owner of the land, or to the guar-
32 dian, if the owner be an infant, or to the committee, the
33 owner being *non compos mentis*, if such owner, guar-
34 dian or committee can be found within the County, or if
35 he cannot be so found, then such appointment shall not
36 be made, unless notice of the application shall have been
37 published at least one month next preceeding in some
38 news-paper printed as convenient as may be to the Court
39 House of the County, and shall have been posted at the
40 door of the Court House, on the first day at least, of the
41 next preceeding term of the said Court. A day for the
42 meeting of the said freeholders, to perform the duty as-
43 signed them, shall be designated in the order appointing
44 them: and any one or more of them attending on the day,
45 may adjourn from time to time until their business shall
46 be finished. Of the five freeholders so appointed, any
47 three or more of them may act, after having been duly
48 sworn or solemnly affirmed, before some Justice of the
49 Peace, that they will impartially and justly, to the best of
50 their ability, ascertain the damages which will be sustain-
51 ed by the proprietor of the land, from the condemnation
52 thereof, for the use of the company, and that they will tru-
53 ly certify their proceedings thereupon to the Court of the
54 said County.

XII. It shall be the duty of said freeholders, in pursu-
2 ance of the order appointing them, to assemble on the
3 land proposed to be condemned, and after viewing the
4 same, and hearing such proper evidence as the parties
5 may offer, they shall ascertain according to their best
6 judgment, the full sum which ought to be paid to the pro-

7 proprietor of the land to be condemned to the use of said
 8 company, by the condemnation thereof for the use of the
 9 company. In performing this duty they shall consider
 10 the proprietor of the land as being the owner of the whole
 11 fee-simple interest therein ; they shall take into considera-
 12 tion the quantity and quality of the land to be condemned,
 13 the additional fencing that will be required thereby, and
 14 all other inconveniences which will result to the proprie-
 15 tor from the condemnation thereof.

XII^r. When the said freeholders shall have agreed upon
 2 the amount of damage, they shall forthwith make a writ-
 3 ten report of their proceedings, under their hands and
 4 seals, in substance, as follows: We——freeholders, appoint-
 5 ed by an order of the Court of Pleas and Quarter Sessions,
 6 for the purpose of ascertaining the damage that will be
 7 sustained by ——, the proprietor of certain lands in
 8 said county, which the President and Directors of the
 9 Roanoke Valley Railroad Company proposed to condemn
 10 for their use, do hereby certify that we met together on
 11 the land aforesaid, on the — day of ——, the
 12 day appointed therefor by said order, (or the day to which
 13 we were regularly adjourned from the day appointed for
 14 our meeting by the said order) and that having been first
 15 duly sworn, and having visited the premises, we pro-
 16 ceeded to estimate the quantity and quality of the land
 17 aforesaid, the quantity of additional fencing which would
 18 probably be occasioned by its condemnation, and all oth-
 19 er inconveniences which seemed to us likely to result
 20 therefrom, to the proprietor of said land ; that under the
 21 influence of these considerations we have estimated and
 22 do hereby assess the damage aforesaid at the sum of
 23 \$ ——, given under our hands and seals the — day of
 24 ——.” At the foot of the report so made, the
 25 magistrate before whom the said freeholders were sworn,
 26 shall make a certificate in substance as follows :

27 _____, county, viz.:
 28 I, a Justice of the Peace of said county, do hereby certify
 29 that the above named freeholders, before they executed

30 their duties as above certified, were solemnly sworn (or
31 affirmed,) before me, that they would impartially and just-
32 ly, to the best of their ability, ascertain the damages which
33 ought to be paid to the above named ----, by the con-
34 demnation of the above mentioned land for the use of the
35 Roanoke Valley Railroad Company, and that they would
36 certify truly their proceedings thereupon to the Court of
37 said county, given under my hand this — day of ———,
38 ———."

XIV. The report of the freeholders so made, together
2 with the certificate of the Justice of the Peace as afore-
3 said, shall be forthwith returned by the said freeholders to
4 the Court of the county, and unless good cause be shown
5 against the report, it shall be confirmed by the Court and
6 entered on record; but if the said report shall be disaffirm-
7 ed, or if the said freeholders, being unable to agree, should
8 report their disagreement, or if from any other cause they
9 should fail to make a report, within a reasonable time after
10 their appointment, the Court may at its discretion, as of-
11 ten as may be necessary, supersede them, or any one of
12 them, and appoint others in their stead, and direct another
13 view and report to be made the manner above prescribed.

XV. On the confirmation of any such report, and on
2 payment or tender to the proprietor of the land, of the
3 damage so assessed, or the payment of such damage into
4 Court, when for good cause shown, the Court shall have
5 so ordered it, the land reviewed and assessed as aforesaid
6 shall be vested in the Roanoke Valley Railroad Compa-
7 ny, and they shall be adjudged to hold the same, for and
8 during the time of their corporate existence, in the same
9 manner as if the proprietor had sold and conveyed it to
10 them; and if at any time before the expiration of said
11 charter, the land and other property herein allowed to be
12 condemned shall cease to be used for railroad purposes,
13 either by non use, forfeiture or otherwise, for the space
14 of ten years after it shall have been in full operation, then,
15 and in that case the said land and other property so con-

16 demned shall revert back and vest in the original owner,
17 his heirs or legal representatives.

XVI. While these proceedings are depending for the
2 purpose of ascertaining the damage to the proprietor, for
3 the condemnation of his land, the President and Directors,
4 if they think the interest of the company requires it, may,
5 by themselves, their officers, their agents, and servants,
6 enter upon the lands laid out by them as aforesaid, and
7 which they desire to condemn, and apply the same to the
8 use of the company. If when they so take possession, pro-
9 ceedings to ascertain the damages as aforesaid be pending,
10 it shall be their duty diligently to prosecute them to a
11 conclusion. And when the report of the freeholders as-
12 certaining, the damages, shall be returned and confirmed,
13 the Court shall render judgement in favor of the proprie-
14 tor of the land for the amount thereof, and either compel
15 its payment into court or award a process of execution
16 therefor, as to them shall seem right.

XVII. In the mean time no order shall be made, and
2 no injunction shall be awarded by any Court or Judge, to
3 stay the proceedings of the company in the prosecution
4 of their works, unless it be manifest that their officers,
5 agents and servants are transcending the authority giv-
6 en them by this act.

XVIII. If the President and Directors shall take pos-
2 session of any land before the same shall have been pur-
3 chased by them, or condemned and paid for according to
4 the provisions of this act, and shall fail for forty days to
5 institute proceedings for its condemnation as aforesaid, or
6 shall not prosecute, with due diligence, the proceedings
7 commenced for that purpose, it shall be lawful for
8 the proprietor of the land, upon giving to the said
9 President and Directors, or any one of them, ten days
10 previous notice, to apply to the Court of the county
11 in which the land or the greater part thereof shall lie, and
12 upon such application the Court shall appoint five disin-
13 terested and impartial freeholders to assess the damages to
14 the owner, from the condemnation of his land for the use
15 of the company, shall appoint a day for their meeting, to

16 report the duties assigned them, and shall dismiss, at the
17 cost of the company, any proceeding then depending on
18 their behalf for the condemnation of the said land. The
19 freeholders so appointed, or any three or more of them,
20 may act, and shall proceed in the performance of their
21 duties in all respects in the same manner as if they had
22 been appointed on the application of the President and
23 Directors of the company. And the Court shall in like
24 manner confirm or disaffirm their reports, supersede them
25 or any of them, and appoint others in their stead, or di-
26 rect another view and report to be made, as often as may
27 be necessary. And when such report, ascertaining the
28 damages, shall be confirmed, the Court shall render judg-
29 ment in favor of the proprietor for the damages so as-
30 sessed and double costs, and shall thereupon, either com-
31 pel the company to pay into Court the damages and costs
32 so adjudged, or award process of execution therefor, as to
33 them shall seem right.

XIX. When the judgment rendered for the damages
2 assessed and costs shall be satisfied by the payment of the
3 money into Court or otherwise, the title of the land for
4 which such damages are assessed shall be vested in the
5 company in the same manner as if the proprietor had sold
6 and conveyed it to them.

XX. That the said President and Directors for the pur-
2 pose of constructing their railroad aforesaid and the works
3 necessary connected therewith, or of repairing the same
4 after they shall have been made, or of enlarging or other-
5 wise altering the same, shall be at liberty by themselves,
6 their officers, agents or servants, at any time to enter up-
7 on any adjacent lands, and to cut, quarry, dig, take and
8 carry away therefrom, any wood, stone, gravel or
9 earth, which may be necessary: *Provided however,*
10 that they shall not, without the consent of the owner, cut
11 down any fruit trees, or any trees preserved in any lot or
12 field for shade or for ornament, nor take any gravel, tim-
13 ber, stone or earth, constituting any part of any fence or
14 building. For all wood, stone, gravel, or earth taken un-
15 der authority of this act, and for all incidental injuries

16 done to the inclosures, crops, woods, or grounds, in tak-
17 ing or carrying away the same, the said President and
18 Directors shall make the owner a fair and reasonable com-
19 pensation, to be ascertained if the parties cannot agree, by
20 any three disinterested and impartial freeholders, who be-
21 ing appointed for that purpose by any Justice of the Peace
22 thereto required by the owner, shall be sworn by him, and
23 shall then ascertain the compensation upon their own
24 view, of the wood, stone, gravel, or earth taken, and of
25 the injury done as aforesaid in taking them: Provided
26 however, That it shall be the duty of the owner or own-
27 ers to show to the Justices of the Peace to whom the ap-
28 plication is made, that ten days previous notice of the
29 time of making the same has been given to the President
30 or one of the principal agents of the railroad company,
31 and no award which may be given under any appoint-
32 ment without such notice, shall be obligatory or binding
33 on said company: Provided however, That either party
34 not satisfied with the award which may be given as above,
35 may appeal to the Court of Pleas and Quarter Sessions of
36 the county in which the land may be situated, who may,
37 as in the case of assessment of land, confirm or disaffirm
38 the report of the freeholders, supersede them, or any of
39 them, and appoint others in their stead, to direct another
40 view and report to be made as often as may be necessary.

XXI. If the said President and Directors, in entering
2 upon the lands of any person, under the authority of this
3 act, for the purpose of laying out or constructing, en-
4 larging, altering or repairing, any of their said works,
5 shall, by themselves or their officers, do any wanton or
6 wilful injury to such land or appurtenances, or to the
7 crops growing or gathered, or to any other property there-
8 on, the Roanoke Valley Railroad Company shall pay to
9 the person so injured, double the amount of damages,
10 which shall be assessed by a jury in any proper action
11 therefor, or if said injury be done by any person or per-
12 sons who may have contracted with the company for the
13 construction of any portion of their railroad, or any of

14 the works connected therewith, he or they shall be re-
15 sponsible to the party injured in the like amount.

XXII. That whenever, in the construction of said
2 railroad, it shall become necessary to cross or intersect
3 any established road or way, it shall be the duty of the
4 said President and Directors, so to construct the said rail-
5 road across such established road or way, as not to im-
6 pede the passage or transportation of persons or property
7 along the same, or when it shall be necessary to pass
8 through the lands of any individual, it shall also be their
9 duty to provide for such individual a proper wagon way
10 across said railroad, from one part of his land to the
11 other: *Provided however*, that in order to prevent the
12 frequent crossing of established roads or ways, or in cases
13 in which it may be necessary to occupy the same, it may
14 be lawful for the said President and Directors to change
15 the said road to points where they may deem it expedi-
16 ent to do so. And, that, for entering upon or taking any land
17 which may be necessary therefor, they shall be and are
18 hereby authorized to proceed under the provisions of this
19 act, as in the case of land necessary for their railroad: *Pro-*
20 *vided further*, that previous to the making of any such
21 change, the said company shall make and prepare a road
22 equally good with the portion of the road proposed to be
23 substituted; but nothing herein contained shall be so con-
24 strued as to make it incumbent on the company to keep
25 in repair the portion of any road which they may have
26 changed as aforesaid.

XXIII. That the said President and Directors, or a ma-
2 jority of them, shall have power to purchase, with the
3 funds of the company, and place on the railroad construct-
4 ed under this act, all machines, wagons, vehicles, car-
5 riages and teams of any description whatsoever, which
6 they may deem necessary or proper for the purpose of
7 transportation; or if they should deem it most expedient
8 to do so, they may contract with any other railroad com-
9 pany, or with any individual or individuals, for effecting
10 the transportation of the same.

XXIV. That all machines, wagons, vehicles and carriages, purchased as aforesaid with the funds of the company, or engaged in the business of transportation on said railroad, and all the works of the said company constructed, or property acquired under the authority of this act, and all profits which shall accrue from the same, shall be vested in the respective stockholders of the company, in proportion to their respective shares; and the same shall be deemed personal estate, and shall be exempt from any public charge or tax whatsoever, for the term of fifteen years, and thereafter the Legislature may impose a tax not exceeding twenty-five cents per annum per share, on each share of the capital stock, whenever the annual profits thereof shall exceed six per cent.

XXV. That upon the railroad hereby authorized, the company shall have the exclusive right of transportation. When it is completed, they shall at all times furnish and keep in good repair the necessary carriages and other requisites, for the safe and convenient transportation of persons and property; and it shall be their duty at all times, upon the payment or tender of the tolls hereby allowed, to transport to any depot on the road which the owner of the goods may indicate, and there to deliver all articles which shall be delivered to them for transportation, or offered to them in proper condition to be transported, at some depot on the road, most convenient for the reception thereof.

XXVI. That they shall give no undue preference in transportation to the property of one person over that of another, but as far as practicable, shall convey each article in the order of time in which it shall be delivered or offered for transportation, with the tolls paid or tendered. If the company, or any of its officers or agents shall fail to receive, transport or deliver, in due time, any property so offered or delivered to them for transportation, or shall fail to take up or set down any passenger or passengers at such convenient points as he or they may desire, upon

11 the payment or the tender of the passage money hereby
12 allowed, they shall forfeit and pay to the party so injured,
13 double the amount of the lawful toll paid or tendered,
14 and shall moreover be liable to an action on the case, in
15 which full damages and double costs shall be recovered.

XXVII. That so soon as any portion of the railroad
2 hereby authorized, shall be in readiness for transporta-
3 tion, it shall be lawful for the said President and Di-
4 rectors, to transport by their officers or agents, or by cou-
5 tractors under them, persons and property on the same;
6 and they shall have power to charge for the transportation
7 of persons, goods, produce, merchandize or other articles,
8 and for the transportation of the mail, any sum not ex-
9 ceeding the following rates, viz: on persons, not exceed-
10 ing six cents per mile for each person, unless the distance
11 which any person be transported be less than ten miles,
12 in which case the President and Directors may be entitled
13 to make an extra charge of fifty cents for taking up and
14 putting down each person so transported; for the trans-
15 portation of goods, produce, merchandize and other arti-
16 cles, not exceeding an average of ten cents per ton per
17 mile; and for the transportation of the mail, such sums
18 as they may agree for; and the said President and Di-
19 rectors shall be furthermore entitled to demand and re-
20 ceive for the weighing, storage and delivering produce
21 and other commodities, at their depots and ware-houses,
22 rates not exceeding the ordinary ware-house rates charged
23 for such services.

XXIX. That as soon as ten miles of the railroad here-
2 by authorized shall be completed, the President and Di-
3 rectors shall, annually or semi-annually, declare and make
4 such dividend as they may deem proper, of the nett pro-
5 fits arising from the resources of the said company, after de-
6 ducting the necessary current, and probable contingent
7 expenses of the said company; and shall divide the same
8 among the proprietors of the stock of the said company,
9 in proportion to their respective shares.

XXX. That an annual meeting of the subscribers to
2 the stock of the said company shall be held at such time
3 and place in each year, as the stockholders at their first
4 general or at any subsequent meeting may appoint, to
5 constitute which, or any general meeting called by the
6 President and Directors, according to the provisions of

7 this act, the presence of the proprietors entitled to a ma-
8 jority of all the votes which could be given by all the
9 stockholders, shall be necessary either in person or by
10 proxy, properly authorised; and if a sufficient number
11 do not attend on that day or any day appointed for a gen-
12 eral meeting called by the directors as aforesaid, the pro-
13 prietors who do attend may adjourn from time to time,
14 until a general meeting shall be held.

XXXI. That in counting all votes of the said compa-
2 ny, each stockholder shall be allowed one vote for each
3 share, not exceeding five shares; one vote for every two
4 shares above five, not exceeding fifteen shares; and one
5 vote for every five shares above fifteen, by him held at
6 the time, in the stock of the company; *Provided how-*
7 *ever*, that no stockholder, whether an individual or body
8 politic or corporate, shall be entitled to more than sixty
9 votes on any amount of the capital stock of said company,
10 held by him or them.

XXXII. That the President and Directors shall ren-
2 der distinct accounts of their proceedings and disburse-
3 ments of money, to the annual meeting of the stock-
4 holders.

XXXIII. That the works hereby required of the
2 Roanoke Valley Railroad Company, shall be executed
3 with diligence; and if they be not commenced within
4 four years after the passage of this act, and finished with-
5 in ten years after the first general meeting of the stock-
6 holders, then this charter shall be forfeited.

XXXIV. That the President and Directors shall cause
2 to be written or printed, certificates for the shares of the
3 stock in said company, and shall deliver one of such cer-
4 tificates, signed by the President and countersigned by
5 the Treasurer, to each person, for the number of shares
6 subscribed by him, which certificate shall be transferable
7 by him, subject, however, to all payments due or to be-
8 come due thereon; and such assignee having caused the
9 transfer or assignment to be entered into a book of the
10 company to be kept for the purpose, shall thenceforth be-
11 come a member of the said company, and shall be liable
12 to pay all sums due, or which shall become due, upon
13 the stock assigned to him: *Provided however*, that such
14 assignments shall, in nowise exempt the assignor or his
15 representative, from the liability to the said company, for
16 the payment of all such sums, if the assignee or his rep-
17 resentative shall be unable or fail to pay the same.

XXXV. That if, at any time hereafter, the above rates

2 for tolls and transportation shall enable the said President
3 and Directors, after the payment of all necessary expen-
4 ses, and after setting apart a fair and reasonable sum for
5 the renewal and repairs of said road, ware-houses, de-
6 pots, and other constructions, and of the machines, cars
7 and other vehicles for transportation, to divide more than
8 fifteen per cent. on their capital stock invested ; that the
9 said rates of toll and transportation shall be so reduced
10 by the said President and Directors, as to enable them to
11 divide fifteen per cent. and no more.

XXXVI. That all the officers of the company, and ser-
2 vants and persons in the actual employment of the com-
3 pany, be, and they are hereby exempted from performing
4 ordinary militia duty, working on public roads, and serv-
5 ing as jurors.

XXXVII. That it shall be the duty of said company,
2 in case of war or insurrection, to transport the troops in
3 the employment of the State and their munitions of war,
4 free of cost, over their said road.

XXXVIII. That all contracts or agreements authenti-
2 cated by the President and Secretary of the Board of Di-
3 rectors, shall be binding on the company with or without
4 a seal ; such a mode of authentication shall be used, as
5 the company, by their by-laws, may adopt.

XXXIX. *And be it further enacted,* That one of
2 the conditions of this charter is, that this General Assem-
3 bly shall have power and authority, at any future session,
4 to establish, regulate and control the intercourse between
5 the Roanoke Valley Railroad and the Raleigh and Gaston
6 Railroad, so as best to secure to the public an easy and
7 convenient passage of persons and property.

[SENATE Doc. 402.]

AMENDMENTS

TO THE BILL FOR

THE MORE SPEEDY ADMINISTRATION OF JUSTICE

OFFERED BY

MR. BYNUM OF RUTHERFORD.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

SENATE, Jan. 4th, 1851.
[Introduced by Mr. BYNUM, and ordered to be printed.]

AMENDMENTS

To the Bill for the more speedy and certain administration of justice.

I. That there shall be ten judicial circuits in this State, and the Superior Courts of Law and Courts of Equity shall be held by the Judges of the Superior Courts of Law and Courts of Equity now in office, and the present Judges of the Supreme Court.

II. *Be it further enacted*, That the Supreme Court shall hereafter be held by the present Judges of the Supreme Court, and the Judges of the Superior Courts of Law and Equity, now in office, and those hereafter to be elected, two thirds of whom must be present to constitute said Supreme Court, who shall have the same powers, exercise the same jurisdiction, and be governed by the same rules and regulations which govern the present Supreme Court.

III. *Be it further enacted*. That all Judges hereafter to be elected, shall be Judges of the Superior Courts of Law and Courts of Equity, and shall receive the same salary with the present Judges of the said courts.

IV. *Be it further enacted*, That there shall be elected by the present General Assembly, three Solicitors for the three additional circuits, and the said ten circuits shall be arranged, and the times for holding the courts therein shall be prescribed by an act hereafter to be passed by the present General Assembly.

[SENATE DOC. 89]

REPORT

OF THE

JOINT SELECT COMMITTEE

ON THE

DEAF AND DUMB INSTITUTE.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[Senate, Dec. 20, 1850. Ordered to be printed, with the accompanying documents.]

REPORT.

The Joint Select Committee, to whom was referred a resolution, instructing them to ascertain and report to the Legislature the present condition of the Institute for the education of the Deaf and Dumb, and the manner in which the same has been and is now conducted, also the report of the Board of Directors to the Legislature, beg leave to Report :

That they have visited the Institute, and fully examined it in all its various departments. The charge of the Institution is placed in the hands of a Board of Directors appointed by the last Legislature, composed of Messrs. John H. Bryan, Linn B. Sanders, Wm. W. Holden, P. Busbee, James F. Jordan, Thomas J. Lemay, and Dr. Charles E. Johnson. The services of these gentlemen are given without pecuniary compensation, and from an examination of their acts, the committee are satisfied that, while they have had in view the best interests of the Institution, they have not forgotten the importance of an economical and judicious disbursement of the funds confided to them. The intellectual department is still under the management of Mr. William D. Cooke, assisted by Messrs. James A. Watterson and George E. Kitchen, both deaf mutes, educated at the New York Institution for the Deaf and Dumb. The present number of pupils is 31, which is a larger number than has been in attendance at any former period.

From witnessing the exercises in the school rooms, the committee are satisfied that the pupils of the North Carolina Institution will compare favorably with those of any similar Institution in the United States. The domestic arrangements are made with a view to the health and comfort of the pupils. The sleeping apartments are well ventilated and neatly arranged. The dining room is in the basement story of the main building, and contains three tables, one for girls, another for the boys, and the third for the family of the Prin-

cipal and the Teachers; all of whom partake of their meals at the same time. From a careful investigation of the management of this branch of the Institution, the committee see nothing which needs alteration or improvement, and they are strongly impressed with the conviction that no parent, however devotedly attached to his or her child, however the afflictive deprivation of hearing and speech may cause their affections to entwine more closely around their stricken ones, could devise a happier home, kinder or more indulgent guardians, or ampler opportunities for intellectual and moral culture.

The committee are pleased to find that due importance is attached to the subject of teaching trades to the pupils, thus enabling them to acquire the means of future support. From an examination of this department, however, it is evident that better accommodations are required for the shops. The printing office is in the basement story of one of the wings. The shoe shop occupies a small room in the other wing, capable of holding only three benches, while there is no shop for carrying on carpenter's work. The committee therefore recommend that a building be erected, of two stories and of a suitable size to carry on the mechanical operations of the Institution. The attention of the committee was also drawn to several other matters of importance, such as furnishing the wardrobes of the pupils with sets of drawers for their clothes; putting blinds to the inside windows of the wings, to effect an entire separation between the boys and girls; book cases in the Library; drains from the pumps; apparatus for school rooms; improvement of the grounds; and painting the fence in front. These matters, however, they consider come within the province of the Board of Directors, who are empowered "to direct and do all matters and things which, not being inconsistent with the constitution and laws of the United States or of this State, shall seem to them most expedient, for promoting the purposes and fulfilling the objects of said Institution."

In the report of the Board of Directors to the Legislature referred to this committee, it is requested that the committee would examine the subject of compensation to instructors, and give them the benefit of their judgment upon the most proper mode of arranging said compensation.

Having given this subject particular attention, we are of opinion that the present mode of compensation to the Principal, is the best for the Institution and the State. The amount allowed for each pupil, the committee are satisfied, is not too much, especially as the estimates upon which this allowance is based, were made when provisions of all kinds could be procured at a cost much below the present prices.

Another subject referred to this committee is that of making provision for the education of the blind. It appears that it was the original intention of the Legislature to make provision for this class, as well as for the deaf and dumb. It was, however, thought best to commence and establish one department first, and then introduce the other. This became more necessary from the fact, that the part of the fund appropriated for the blind was, by act of the Legislature, applied to the erection of the buildings. That having been accomplished, it seems a proper time to introduce this department; and the committee are happy to learn that this can be done without costing more than the expense of sending a blind pupil out of the State, except a small outlay at first for instruments, school apparatus, &c. From conversation with the present Principal of the Institution, the committee learn that he is willing to introduce the blind on the following terms: He is to have the general superintendence of both departments, and to give that care and instruction, in each, which the circumstances of the case may require; to furnish two teachers, one for the musical department, and one for the intellectual department; and to furnish boarding for the pupils: For this he is to receive two hundred dollars per pupil; and ten pupils to be guaranteed: The board of Directors to furnish the necessary instruments, school apparatus, &c. for carrying on this

department. These, the committee find, are the same terms, or very similar to those offered by the Literary Board, to two different individuals, without success.

Your committee believe this desirable end may be accomplished without any additional appropriation at the present session.

Another subject, claiming the notice of the committee in the report of the Board of Directors, is the present condition of the buildings.

At the last session of the Legislature, a Joint-Select Committee was raised to report upon the situation and progress of the buildings. The special object of that committee was, to ascertain whether the contract for the erection of the buildings had been made upon the plan adopted by the Legislature of a previous session, or whether the plans had been altered so as to make the buildings exceed the cost intended by the Legislature. That committee, after visiting and fully examining the buildings and contract, in connection with the drawings, reported that "the buildings had been constructed according to the original plan recommended by the Joint Select Committee and adopted by the General Assembly."

The report of that committee had no reference, in any manner, to the workmanship or the manner in which the contractors had performed their contract; nor did they feel that they were authorized or empowered to pass upon those matters.

That committee finding that the buildings at that time occupied by the Institution, had been sold, and that the contractors were anxious to have the school removed to the new building, (although not completed) as the time stipulated for the completion of the buildings had expired, recommended to the Legislature the adoption of a Resolution authorizing the Principal of the Institution to occupy the building when the contractors had given their written consent thereto, upon the condition that said occupancy should in no way affect the due and faithful execution of their contract. The contractors having complied with this resolution, the building was so occupied.

From an examination of the Records of the Board of Directors of the Institution, it appears that soon after their organization, they personally examined the buildings and entered upon their minutes the following order, viz :

“That the Secretary of the Board be requested to notify the Messrs. Cosby, contractors for this building, that the Board have examined the main building and wings: that they find this work, in many particulars, defective and unworkmanlike, and at variance with their contract, and that he further apprise them of certain of said defects noticed by the Board, and that they will be expected to comply with their said contract by the 15th of April next.”

The Board, in order to have the judgment of experienced builders, requested three architects, Messrs. Martindale, Nunn and Royster, “to examine the buildings, and note in writing the variations in the work thereof from the contract made by the contractors with the Literary Board.” This request was complied with, and a report made, in writing, to the Board of Directors.

On the 13th of July, the requisition of the Board not having been complied with, the following order was made, which was furnished to them, viz: “That the Secretary of the Board be directed to notify the Messrs. Cosby, Contractors, that they are expected to elect by 11 o'clock on Saturday whether they will proceed to finish the buildings for the Deaf and Dumb, and make such alterations as can be done in compliance with their contract, and that they give notice of their intention to the Board within that time, or else arrangements will be made by the Board for having the work done by other contractors.” To this notice, the contractors replied by requesting an interview with the Board of Directors, that they might understand what was required of them. This request was granted, and at a subsequent meeting, at which the contractors were present, the Board referred to the report of Messrs. Martindale, Nunn and Royster, as containing the unfinished work, and the alterations they required should be done at that time.

The contractors having signified their intention to do the work as required by said report, they were allowed to specify such time as in their opinion would be sufficient to complete it.

The time chosen by the contractors for the completion of the work having elapsed, and nothing having been done, the following order was passed, viz: "That the Messrs. Cosby be notified that, unless they commence the work on the buildings &c., during the present week, and prosecute the same to completion according to the specifications made by Messrs. Martindale, Nunn and Royster, heretofore furnished them, the Board will employ other contractors to do the same."

At this stage of affairs, after having commenced the work and subsequently abandoned it, it appears that the contractors requested to be heard before the Board by counsel, which was granted, when the counsel raised the following question, viz:

"Whether under the contract with the Literary Board and the Messrs. Cosby, and the Act of Assembly passed at the last Session of the General Assembly, incorporating this Board, it has the power to pass upon and receive, or reject the work on the buildings, or the buildings when completed."?

At a subsequent meeting of the Board of Directors, the following order was unanimously adopted, viz:

"Messrs. Cosby and Sons, contractors &c., having appeared before the Board, by their counsel, and insisted that the Board has no power to pass upon and receive, or reject the work on the buildings, or the buildings when completed," and the Board having considered this opinion, is of opinion, that it was the intention of the Legislature, among other things, to confide to it the superintendence of the erection of the buildings, and they had reason to believe, particularly from the conduct of Mr. Cosby, the elder, in his intercourse with the Board, that there was no objection on the part of contractors to their exercising this trust.

“ The Board now understand, that the contractors insist
“ on a strict construction of the contract made by them with
“ the Literary Board, dated the 8th day of September 1847,
“ and particularly on the stipulations therein contained,
“ that ‘ the President and Directors of the Literary Fund, or
“ such persons as they may designate, shall judge and deter-
“ mine whether they have complied with, and fulfilled all the
“ obligations and requirements of said contract.’ This Board
“ without admitting that they are not entitled to superintend
“ the erection of the buildings, are nevertheless of the opinion,
“ that the Messrs. Cosby and Sons are entitled to the judg-
“ ment of Literary Board, or some persons designated, upon
“ the question, whether they have complied with the require-
“ ments of the same, and believe that the interests of the
“ Institution demand that these questions should be speedily
“ settled, inasmuch as there has already been great delay in
“ the completion of said contract.”

Your committee have been thus minute in their extracts from the record of the Board of Directors, in order that this subject may be fully understood by the Legislature. Since the time mentioned above, when the subject of the fulfilment of the contract was referred to the Literary Board, nothing has been done towards the completion of the buildings, or remedying the defects, and this committee believe that the interests of the Institution, and of the State demand that this should be done immediately, for although the contractors are liable in damages for the nonperformance of their contract, yet no damages that could be recovered, would compensate for the injury the buildings would sustain from being allowed longer to remain in their present condition. It appears, that the sum of two thousand five hundred dollars, of the appropriation of the fifteen thousand dollars, for the buildings, is still in the Treasury. Your committee therefore recommend, that the Board of Directors of the Institution be authorized and directed to cause the work and alterations specified in the report of Messrs. Martindale, Nunn and Royster, to be done,

and such other alterations, as, in their judgment, may be necessary, and the cost of the same to be paid out of the above mentioned sum, of two thousand five hundred dollars. Another subject, which although not strictly referred to this committee, yet seems properly to come under their observation, is brought to their notice upon reading the late report of the Literary Board, to the Legislature ; in which, after stating the number of pupils, beneficiaries of the State, and the fact that no provision has yet been made for introducing a department for the Blind, a suggestion is made, that while this state of things continues the annual appropriation of five thousand dollars, ought to be curtailed.

It seems to this committee, that a suggestion like this, would come more properly from the Board of the Directors of the Institution, rather than from another Board, who, from the nature of the case, can have no means of judging of the propriety of such a curtailment of the appropriation. This appears from fact, that the suggestion is based upon the number of pupils of a former session, and not upon the number now actually within the Institution. The report states, "that the report of the Superintendent to this Board, shows that he had under his charge for the year ending 15 May, 1850, eighteen Deaf Mutes who are beneficiaries of the State."

To show that the report of the Superintendent to the Literary Board could form no criterion upon which to base an estimate of the appropriations necessary to support the Institution, it may be stated, that there might be fifty pupils in the Institution, beneficiaries of the State, either in full, or in part, and yet, the report might not include the names of more than twenty. The report referred to, is made to enable the Literary Board to comply with the act of Assembly, in those cases where the counties have failed for the term of twelve months, to pay the amount required of them; and should it contain the names of those for whom the counties have paid their quota, or of those who pay the part required from the counties themselves, the consequence would be that such counties would be required to pay twice.

But aside from this, it should be remembered, that the number of pupils is increasing, and that it is now proposed to introduce a department for the Blind; and, therefore, the effect of a reduction of the appropriation might be to require the Board of Directors to refuse the prayer of some Deaf Mutes, or Blind persons, who may apply for admission to the benefits of the Institution; and your committee cannot believe that North Carolina would refuse admission to a single child of misfortune, of a proper character, who knocks at the door of the first benevolent Institution established within her borders.

Respectfully submitted,

WM. H. WASHINGTON,
Chairman of the Committee.

But make them this it should be very carefully, that the sum-
 ber of pupils is increasing, and that it is now proposed to in-
 troduce a department for the blind; and therefore, the effect
 of a reduction of the appropriation might be to reduce the
 Board of Trustees to reduce the number of pupils, and thus
 or blind persons, who are to apply for admission to the benefits
 of the Institution; and your own views would be that
 North Carolina would rather see a single school of
 education of a proper character, who know of the state of
 the last permanent Institution established within her borders.

Respectfully submitted,

WM. H. WASHINGTON,

Secretary of the Institution.

[Doc. 90.]

REPORT

OF THE

BOARD OF DIRECTORS

OF THE

DEAF & DUMB ASYLUM

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

[House of Commons, Dec. 2, 1850. On Mr. BROGDEN'S motion, ordered to be sent to the Senate with a proposition to refer to joint select committee on the subject.]

REPORT.

To the Honorable,

The General Assembly of the State of North-Carolina:
The President and Directors of the North-Carolina Institute
for the education of the Deaf and Dumb, respectfully
REPORT,

That by an act of the General Assembly, passed January, 1849, this board is constituted, and it is made its duty, among other things, to report to the General Assembly, at each of its sessions, a full account of its receipts and disbursements, the funds on hand, and a general statement of the condition of said Institution.

The directors, appointed by said act, assembled very soon after their appointment, and organized the board by the appointment of proper officers; and for the orderly dispatch of business and careful application of such public funds, as were appropriated to the objects of the institution, they adopted a system of by-laws, which, with all their proceedings, are subject to the view of your honorable body.

It will be perceived, by reference to the acts, &c., that, until the organization of this board, this whole subject was placed under the control and direction of the Literary Board, which board, under the provisions of the act of January, 1847, had contracted for the erection of buildings for accomodation of the pupils of the Institution, and had also contracted with the present principal of the Institution, for his valuable services in the instruction of the deaf mutes, and also for their board and maintenance, and the services of the necessary additional instructors, matron, &c. When this board entered upon its duties, the present building was

occupied by the institute, under a special arrangement with the contractor, and the Principal was conducting the school, under an agreement with the Literary Board, upon the principle that he was to provide the board and maintenance and necessary attendance of the pupils, and be paid only for the pupils actually instructed, which arrangement received the commendation of the committee of the Legislature in 1849, who had this subject under their consideration. This subject (the mode and amount of compensation to the principal and additional instructors) received the early and careful consideration of the board, and resulted in their making a contract with the Principal of the Institution, in which the principle of the former agreement was as far as possible preserved. By this contract the Principal is to receive \$145 for each pupil, in consideration of which and a salary of \$1200, he is to furnish boarding of the pupils and all connected with the institution, including his own family, to furnish two teachers, a matron and all necessary servants, medical attendance of the pupils, clothing of such of the pupils-whose parents are unable to furnish it, postage, expense of parents visiting their children, while here, books and stationery; and it is distinctly understood that there is to be no extra charge of any kind for services. It is believed that under this arrangement, the expenses of this institution are by no means excessive, and this belief is derived from the reports made by similar institutions in other States of the Union, which are in the possession of this board, and ready to be submitted to a committee of your honorable body. It was thought best, however, not to make this contract permanent, but it was adopted as an experiment for the then ensuing year, and it now is continued by the tacit and implied understanding of the parties for the present current year. The present number of pupils is thirty, of whom two are pay pupils, and three pay the part required from the counties, viz: seventy five dollars each. The board would be happy to have this matter examined by a committee of the Legislature, so as to

have the benefit of their judgment upon the most proper mode of compensation to the instructors.

Upon examination of the building, the board were not satisfied with the workmanship or materials, and did not think the contract was complied with, and so informed the contractors and furnished them with a statement of the particulars to which they objected. After repeated conferences between the board and the contractors, without any settlement of the matter, the contractors requested to be heard by counsel, which was acceded to, and objections were filed in writing, supported by argument of counsel, tending to shew that by the legal construction of the contract for the erection of the building, the Literary Board, or some person by them appointed, had the authority to determine the question whether the contractors had complied with their contract; and upon consideration and advice, this board were of this opinion, and accordingly declined any further action in the matter, and so informed the Literary Board, who, we believe, concurred in opinion with this board in this construction of the contract. A copy of the contract, with all the proceedings of the board, in relation thereto, will be subject to the inspection of a committee of your honorable body. Before the erection of the smaller building (used for recitation rooms) it was represented to the board, that if it were constructed with a cellar, it would be much more useful, and as such an arrangement would cost only one hundred and seventy-five dollars (175) and in the opinion of the Board would be of great permanent benefit, they decided to have a cellar in said building. This arrangement is entirely independent of the contract for the erection of the buildings, and was made by this board upon its own responsibility.

The board believes that a practical knowledge of some of the mechanic arts, especially printing, cabinet making and shoe-making, would be of great value to the pupils. They have procured a printing press and types, and some of the pupils have been employed in learning the art of printing

and have made much proficiency. It seems peculiarly adapted to their condition. The object of the board has been to make the press defray its own expenses, while it contributes materially to the improvement of the pupils and to their ability to maintain themselves.

The board hope that your honorable body will feel satisfied, by an examination of the pupils of the Institution, that the bounty of the State has been wisely and profitably bestowed. For many ages the condition of this unfortunate class of our fellow beings was regarded as hopeless, and in their dreary pilgrimage through this life, they were almost utterly excluded from communication with their kind; their minds were unilluminated by the torch of science and their hearts uncheered by the rays of the Star of Bethlehem. But for them a brighter day has dawned, the zealous exertions of the friends of humanity and science have found an avenue to their hearts and minds, and established a communication with them, whereby the treasures of knowledge, the delights of social intercourse, and above all the faith and hope of the Gospel have been made their inestimable inheritance. Their right hand has been taught "a cunning" which has rendered it a substitute for the tongue. They are indeed excluded from the fierce and heartless strife of political ambition and the busy din of the commercial mart, but they can converse with the sages of the years that are past, and have a never-failing resource in the silent and instructive companionship of books; they can "commune with their own hearts and be still." Their situation has attracted to them the sympathies of the kind and generous of our land and has enlisted for them your aid and countenance. We trust that their progress in intellectual culture and in moral instruction will justify your care and benevolence, and will cheer the hearts of all those who feel an interest in these children of affliction, and that this institution will long flourish and endure as a monument of the enlightened humanity and true patriotism of its founders.

The last act of the Legislature does not seem to contemplate, from its title, that this board should be charged with the care of the blind, as was originally intended, but upon this point they would be glad to know the wishes of the Legislature. The number of applications from this class of persons has been so small, that it would not have been expedient to organize a department and system of instruction for them. The expense would have been in so great a disproportion to the benefit conferred, that the board thought it best for the present at least to abstain from any action.

Annexed hereto is a report from the Principal of the Institution, shewing the number of pupils, the time of their entry, the mode of instruction and their progress in their studies. At any time when it may suit the convenience of your honorable body, the board would be happy to exhibit before you the proficiency of the pupils. The board also annex a report from their Treasurer, exhibiting an account of the receipts and disbursements on account of the Institution and the present state of their funds. It will appear from this report that when the present board was organized, (Feb., 1849) there was a balance to its credit in the Public Treasury of \$9758 90, and that there was, on the 1st inst., in the Public Treasury, to its credit, the sum of \$5304 70, subject, however, to a deduction for current expenses, for the present session. The vouchers for disbursement are submitted with the Treasurer's report.

Respectfully submitted,

JNO. H. BRYAN,

Pres. of the Board.

Nov. 28, 1850.

REPORT

OF

THE PRINCIPAL

OF THE

N. C. INSTITUTION FOR THE DEAF AND DUMB,

Nov. 1850.



RALEIGH:

Thos. J. Lemay, Printer to the State.
1850.

[The following is the Report of Mr. W. D. COOKE, Principal of the North Carolina Institute, for the Education of the Deaf and Dumb, to the Board of Directors, November, 1850.]

REPORT.

To the Board of Directors of the North Carolina Institution,
for the education of the Deaf and Dumb.

GENTLEMEN: In compliance with an order of your body, it becomes my duty to report the number of pupils, the time of their entry, the mode of instruction, &c.

This being the first formal report that has been made since the establishment of the Institution, it seems proper, that it should embrace the whole period, from its foundation to the present time. In after years, it will thus enable us to recur to its early history, which might, otherwise, be entirely lost.

The Act of the General Assembly, establishing the Institution, was passed on the 12th day of January, 1845. This Act placed it under the supervision of the "President and Directors of the Literary Board," at that time composed of His Excellency, William A. Graham, ex-officio, President of the Board, and Western R. Gales, David Stone, Charles Manly and R. L. Myers, Esqrs.; and the school was organized by the appointment of William D. Cooke, M. A. as Principal.

The necessary arrangements having been made, the school was opened on the 1st day of May, 1845, with seven pupils. During the Session, the number increased to seventeen. The present number is thirty-one. By reference to the accompanying list, it will be seen, that fifty-four pupils have been admitted during the five years the school has been in operation. It will also appear, that a large number of these are above the age at which pupils are usually admitted into similar Institutions. This is unavoidable in the commencement of such schools, and charity demands that many should be received at such an age, as under other circumstances, would prevent their admission as pupils.

Having arrived at the age of 20 or 30, without enjoying the opportunity of receiving instruction, they must either be doomed to live on in ignorance, or be allowed to enter the Institution, and derive such benefit as they can from the instruction given. Although few Deaf Mutes, who have lived to this age without instruction, can be expected to make much progress in *written language*, yet they may derive incalculable benefit from the knowledge imparted to them through their own natural language of signs.

In this language we convey to them the idea of the existence of a Supreme Being. His Omniscience, Omnipresence, Omnipotence &c.; their accountability to him; the idea of a future state of rewards and punishments; with a great amount of other information on this and many other subjects.

At the Session of the Legislature for 1846-7, a Bill was passed providing for the erection of buildings, the cost of which was estimated at fifteen thousand dollars. Of this amount only *five thousand* dollars came directly from the Treasury; the remaining ten thousand having been saved from year to year, out of the annual appropriation. If we add to this, the sum of two thousand five hundred dollars appropriated for out buildings, enclosing &c., we have seven thousand five hundred dollars, which is the whole amount that has been appropriated directly from the Treasury, for building purposes. In January, 1849, the building was occupied, while yet in an unfinished state, at the request of the contractors, and by permission of the Legislature. During the Session of the Legislature for 1848-9, the Institution was placed under the care of a special Board of Directors, composed of John H. Bryan, Linn B. Sanders, Perrin Busbee, Thomas J. Lemay, William W. Holden, James F. Jordan, Esqrs., and Dr. Charles E. Johnson.

The Board was organized on the 29th day of January, 1849, by the election of Hon. John H. Bryan, as President, and Thomas J. Lemay, Esqr. as Treasurer; by the Act of Assembly, the Principal of the Institution is made *ex-officio*, the Secretary of the Board.

On looking back upon the time that has elapsed since the commencement of our Institution, we have much cause for gratitude to Almighty God, from the fact that we have not been called upon to mourn the loss of any one connected with the establishment, and that not a single case of protracted illness has occurred. To Dr. Charles E. Johnson we desire to express our thanks for his prompt, kind, and skillful attentions whenever called upon; and to Dr. Wm. R. Scott, for his valuable services in Dentistry, gratuitously bestowed.

Thirty-three years ago the attention of Rev. Thomas H. Gallaudet, of Hartford was attracted to an interesting daughter of Dr. Cogswell, who was Deaf and Dumb. Through the assistance of several benevolent individuals, he was enabled to visit England and France, for the purpose of acquiring a knowledge of the method of teaching the Deaf and Dumb. Having failed to obtain the desired information from the English Schools, he went to Paris, where every facility was afforded to him, and he returned with Mr. Laurent Clerc, a Deaf Mute, from the Royal Institution of Paris, who still continues to be a teacher in the Hartford Institution.

There are now twelve Institutions for the Deaf and Dumb, in the United States, all of which, derived their method of instruction either directly, or indirectly from the Hartford Asylum.

Although our Institution stands the ninth in the order of foundation, it may not be uninteresting to know that North Carolina was among the first of the States, to take steps for ameliorating the condition of this class of the community, and although no immediate benefit resulted from these efforts to the Deaf and Dumb in the State, who can tell how far the interest now felt for this unfortunate class, has been excited, and strengthened by this and other initiatory steps in their behalf.

It will appear from the following letter, addressed to Hon. John H. Bryan, then a member of Congress, dated January

14th, 1828, that there had been a charter granted to a State Society, instituted in the City of Raleigh, for the establishment of an Asylum, for the instruction of the Deaf and Dumb. The following is a copy of the Letter :

HONORED SIR,

You are hereby respectfully informed, that a State Society has been recently instituted in the City of Raleigh, and incorporated by the Legislature, having for its object, the establishment of an Asylum for the Instruction of the Deaf and Dumb.

Aware that the success, and even existence of such Institutions, must depend, in a great measure, on Legislative bounty, this Society, imitating the example of similar Societies, has resolved to petition the General Government for such a donation of public lands as may be deemed adequate to the accomplishment of the object in view.

In a letter of corresponding date with this, the Memorial of the Institution, together with the Act of Incorporation, has been enclosed to our venerable Senator Mr. MACON, which he is desired to lay before Congress, as soon as he shall have come to an understanding with our other Senator, and our Representatives, as to the course proper to be pursued.

Believing, Sir, that every prudent attempt to provide instruction for the Deaf and Dumb, among our own citizens will meet with your cordial approbation, your influence in support of the Memorial, is earnestly requested.

The average number of *Deaf Mutes* in the United States, and in other countries, is estimated, we understand, at *one* to every *two thousand* inhabitants. Should this estimate be correct, in regard to our own population, then the State of North Carolina presents to our view, the melancholy picture of about *four hundred* of our fellow-beings shut out from intellectual improvement, and consigned to a state of most deplorable mental imbecility and moral darkness.

But should it be ascertained, by actual examination, that the number of *Deaf Mutes* within the bounds of our State does not exceed *one hundred*, to be instrumental in extending relief, from time to time, even to that number of unfortunate human beings, cannot be unworthy the enlightened Statesman and the Christian Philanthropist.

By order of the Society.

JOHN BECKWITH, VICE PRES'T.

WESTON R. GALES, SECRETARY.

Raleigh, January 14th, 1828.

HON. JOHN H. BRYAN,
House of Representatives,
Washington City, D. C. }

To those unacquainted with the manner of teaching the Deaf and Dumb, it may not be uninteresting to state briefly, the course pursued. The question is daily propounded, by visitors: How do you begin to teach the Deaf and Dumb? How do you give them the first idea of language?

There is no Deaf Mute of sound mind, who, is not able, to communicate with his own family, in regard to all common objects. The language in which these communications are made, is the natural language of the Deaf and Dumb, and although in the case of the uneducated, this is very limited, it is sufficient to enable them to make known their wants.

The pupil upon entering the school, is placed before a large Slate; upon this is written the first letter of the Alphabet; the teacher points to the letter, and places his hand in the position representing it, he is taught to imitate this, and also to write the letter upon the Slate. Thus each letter in the Alphabet is written and imitated, by the pupil with the hand and by writing. The next step, is to combine the letters into simple words, expressing familiar objects, such as pen, pin, box, hat, dog, &c. When it is convenient the object is placed before him, or if this cannot be done, its place is supplied by a picture.

The teacher standing in front of his class, makes a sign for a word. If he wishes them to write *hat*, he describes in the air the shape of the hat, with the motion of the hand as in putting it on the head. Having caught the idea, they spell the word with their fingers, this having been done correctly by all, at a sign from the teacher, they write the word.

The class having acquired the names of several objects, is now ready to learn the *qualities* of these objects. If for instance, the word book is taken, several books of different colors are placed before them. The attention is drawn to the objects themselves. "What is this?" all will answer by the appropriate sign "book" and if required, will write the name upon the Slate. Their attention is now directed to the fact, that there is a difference in these books, one may be red, another black, &c., by reference in signs to various examples, they are led to understand that, r-e-d, or the finger placed upon the lower lip represents the color, and that b-l-a-c-k, or the finger passed along the eye-brow, represents that color.

Having learned a few adjectives, these with the names already acquired, are combined, so as to form simple sentences, as "*a good boy,*" "*a bad boy,*" "*a thick book,*" "*a thin book.*"

The language of signs is divided into *natural signs*, and *systematic signs*. The first is the language in which conversation is carried on, but by systematic signs, each word is designated successively by a sign. The sentence, *to-morrow I am going to Richmond*, would be thus expressed by natural signs. The thumb, (the fingers being closed) resting on the cheek, is passed upward and outward, with a slight curve until the arm is extended, representing *to-morrow*. The hand placed in the position to form the letter R, with a perpendicular waive of the hand represents *Richmond*; pointing to the body represents I, and the forefingers revolving round each other, represents the verb *to go*, thus we have *to-morrow Richmond I go*.

Our limits will not allow us to follow this course farther, suffice it to say, that an intelligent Deaf Mute may proceed with his studies to the same extent that a speaking person can even to the acquirement of foreign languages.

The teaching of trades to pupils has always been considered a matter of great importance to them, and has received its due share of attention.

The principal mechanical branch taught is printing, which is peculiarly adapted to the Deaf Mute,

The hours of labor are so arranged as not to interfere with the time devoted to school and recreation. In winter six hours each day are devoted to study, and in summer seven. From two to three hours each day are devoted to instruction in the mechanical branches.

At the time appointed for opening school each morning, the pupils are assembled in the Chapel; a passage of Scripture having been previously written on the Slate is explained, and a prayer offered in signs. At the close of the school in the afternoon, they again meet in the Chapel, when they are questioned upon the lesson of the morning, and the school is closed with prayer.

On the Sabbath, all the pupils are assembled in the Chapel at 9 o'clock, when a Lecture, which occupies from an hour to an hour and a half, is given in signs, the exercises being opened and closed with prayer. In the afternoon similar exercises are held. Thus the Deaf Mute, deprived by a mysterious Providence, of the greatest source of pleasure we are capable of enjoying, that of social intercourse, is by the same kind Providence, put in possession of the means of greatly alleviating, if not of removing entirely the deprivation.

It is interesting to watch the progress of the development of the mind of the Deaf Mute, when for the first time he becomes sensible of the great truths of revealed religion; the existence of the soul; the character and attributes of God; the immortality of the soul; the future state of existence of all men either in Heaven, or Hell, &c.

Often, when the teacher is striving to communicate some important truth that is not easily understood, will he notice the anxious expression of countenance, sometimes even painful in its intensity, of some who are not able at once to comprehend the whole idea intended to be conveyed ; and then is his heart gladdened, when he sees by the speaking eye of one and another as the truth bursts upon them, that his efforts have not been in vain. Then are his labors fully repaid, and he is anxious to proceed farther in the interesting task of unfolding to the benighted mind of his pupil, the great truths of the Gospel.

Respectfully submitted,

WILLIAM D. COOKE, PRINCIPAL.

North Carolina Institution, for the Deaf and Dumb.

November 26, 1850.

CATALOGUE

OF

PUPILS

OF THE

N. C. INSTITUTION FOR THE DEAF AND DUMB.

November 1st, 1850.



CATALOGUE OF PUPILS,

Who have been in the Institution from its foundation to the present time :

No.	Names of Pupils,	Residence,	When admitted,	Age.
1	Baucum, Delaney	Wake,	First Session.	28
2	Barnes, David R.	Nash,	2d "	24
3	Boren, Cyrus W.	Guilford,	1st "	20
4	Cameron, Isabella	Cumber'and,	1st "	17
5	Clonts, Jacob	Buncombe,	2d "	22
6	Clinard, William	Davidson,	6th "	9
7	Cooke, Joseph W.	Northampton	1st "	21
8	Duckworth, N. J. E	Burke,	6th "	10
9	English, Jane	Hyde,	1st "	20
10	Fisher, Leah L.	Cabarrus,	6th "	13
11	Fisher, Catharine L.	Do.	6th "	15
12	Freeman, John B.	Hertford,	5th "	12
13	Flowers, Mary	Johnson,	4th "	11

<i>No.</i>	<i>Names of Pupils,</i>	<i>Residence,</i>	<i>When admitted</i>	<i>Age.</i>
14	Gales, Margaret	Rowan,	Fourth Session,	19
15	Goss, Daniel	Davidson,	3d "	20
16	Grice, Rhoda	Nash,	4th "	35
17	Gilchrist, Betsy	Moore,	3d "	23
18	Horton, Wm. F.	Wake,	1st "	18
19	Hyman, James M. C.	Martin,	1st "	24
20	Hyman, Sylvester	do.	1st "	28
21	Hyman, Louisa F.	do.	1st "	22
22	Maley, Susan	Davidson,	5th "	16
23	Morris, Lucy B.	N. Hanover,	4th "	14
24	Massey, John	Gaston,	2d "	17
25	Neel, James W.	Rowan,	5th "	24
26	Neel, Elam W.	do.	5th "	18
27	Nichols, Wilson A.	Orange,	1st "	20
28	Nichols, Stanford	Wake,	" "	13
29	Oliver, Wm. B.	Johnston,	2d "	24
30	Oliver, Needham J.	do.	2d "	20
31	Oliver, Sarah	do.	2d "	17
32	O'Neal, Jane	Hyde,	5th "	20
33	Moody, Adeline	Richmond,	4th "	10
34	Peace, William E.	Granville,	1st "	28
35	Prewitt, Alexander	do.	2d "	16
36	Prewitt, Richard	do.	2d "	14
37	Pearsall, John H.	Duplin,	1st "	15
38	Pratt, Caroline	Forsythe,	6th "	14
39	Riddle, Delia S.	Chatham,	1st "	31
40	Rothrock, Franklin	Forsythe,	4th "	13
41	Roper, Hezekiah	Caswell,	3d "	28
42	Shelton, William	Edgecombe,	6th "	18
43	Shelton, Lydia Ann	do.	" "	16
44	Shelton, Perlina	do.	" "	10
45	Sofley, Whitson	Stanley,	" "	27
46	Hartshorn, Silvester	Hertford,	3d "	14
47	Smith, Lazarus R.	Cumberland,	4th "	10
48	Shields, Ann R.	Moore,	6th "	11
49	Underwood, Cresey	Franklin,	2d "	26
50	Williams, Martha	Warren,	5th "	14
51	Wiseman, Susan J.	Davidson,	1st "	22
52	Whitesitt, Barbara J.	Alamuce,	4th "	15
53	Walker, Jno. W.	Guilford,	1st "	26
54	Walker, Louisa J.	do.	1st "	18

REPORT
OF
THE TREASURER
OF THE
DEAF & DUMB ASYLUM.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

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[The following is the Report of Mr. T. J. LEMAY, Treasurer of the North Carolina Institute, for the Education of the Deaf and Dumb, to the Board of Directors, November, 1850.]

Raleigh, November 15, 1850.

TO THE BOARD OF DIRECTORS

OF THE NORTH-CAROLINA INSTITUTE,

FOR THE EDUCATION OF THE DEAF & DUMB:

Gentlemen:—In obedience to your instructions, the Treasurer of your Board respectfully submits the following report of the receipts and disbursements which have passed through his hands, on account of the Institution, since your organization, to 1st Nov., 1850. For vouchers, see file A.

Respectfully submitted,

THOS. J. LEMAY, Tr.

Dr.

Thomas J. Lemay, Treasurer of the North-Carolina

1849						
Feb'y	5	To cash, drawn from Public Treasury by order of the Board,			\$2,500	00
March	8	" do do do do			5,000	00
"	27	" do do do do			1,500	00
May	15	" do do do do			500	00
July	20	" do do do do			500	00
Aug.	13	" do do do do			1,000	00
Sept.	26	" do do do do			2,000	00
1850						
March	13	" do do do do			1,500	00
June	22	" do do do do			1,000	00
		Amount carried forward,			\$15,500	00

Institute for the Education of the Deaf and Dumb,

Cr.

1849				
Feb'y	5	By cash paid Wm. D. Cooke, on order Ex. Committee, No. 1	2,100	00
March	5	" do do do for out buildings, order 2	80	00
	8	" do do do part payment of services for present session 3	500	00
	9	" do do D. Cosby & Son, on account of contract for buildings, 4	2,500	00
	14	" do do W. D. Cooke, for building and enclosure 5	320	00
	26	" do do W. D. Cooke, for removing earth around the building 6	100	00
	27	" do do D. Cosby & Son, on account of their contract on buildings, 7	1,500	00
April	5	" do do W. D. Cooke, on account of buildings, 8	200	00
	18	" do do do do 9	200	00
	26	" do do do his compensation in full as Principal of the Institution, to the 1st May, 1849, 10	573	00
May	3	" T. J. Lemay, Treasurer of this board for commissions, 90	90	00
	14	" do W. D. Cooke, for the purchase of the tools of Mechanical Department, 11	720	67
	14	" do W. D. Cooke, for out-buildings, 12	100	00
May	15	" do do as an advance on compensation for next session 13	500	00
July	14	" do do on freight and out-buildings 14	250	00
Aug.	4	" do do for expenses about the building 15	100	00
	11	" do do board and tuition 16	1,000	00
	28	" do paid Wm. D. Cooke, for lumber 17	44	08
	30	" do do H. D. Turner, for blank book for Treasurer's accounts	1	25

Dr.

Thomas J. Lemay, Treasurer of the North-Carolina

1850

To amount brought forward,

15,500 00

Balance due Treasurer,

1 26

\$15,501 26

November 1

Balance due Treasurer,

1 26

Institute for the Education of the Deaf and Dumb.

Cr.

1849			
Sept'r	3	" do do W. D. Cooke, for lumber, carpenters and plas- terers	18 \$548 24
		" do do Bank Protest on same	1 00
Oct'r	9	" do do W. D. Cooke, on account of salary for present session,	19 350 00
1850			
Jany	5	" do do W. D. Cooke, for salary and support	20 1,000 00
		" do do T. J. Lemay, Tr. for commissions	40 00
March	9	" do do W. D. Cooke, "sal- ary and compensation"	21 140 00
	18	" do do W. D. Cooke, on account of salary and com- pensation for support	22 1,100 00
April	25	" do do W. D. Cooke, on account of fencing around garden,	23 30 00
March	10	" do do W. D. Cooke, bal- ance salary, &c.,	24 300 00
June	22	" do do W. D. Cooke, in advance for salary, commen- cing May 1, 1850,	25 600 00
July	10	" do do self, balance com- missions as Treasurer	15 00
	27	" do do Jacob Stanly, bal- ance for fencing	26 51 20
Aug.	17	" do do Wm. D. Cooke,	446 81
			<hr/> \$15,501 26 <hr/>
Oct.	26	In addition to the foregoing, there was drawn from the Public Treasury, and paid to Wm. D. Cooke, for salary and current expenses, on 26th Oct., 1850, by order of the Board, this a- mount,	1,553 19
Making the whole amount disburs- ed from 1st Feb'y, 1849, to Nov. 1, 1850,			<hr/> \$17,054 45 <hr/>

Your Treasurer further reports, with regard to the state of the funds of the Institution, that from a report heretofore made to this Board, by your Executive Committee, it appears there was a balance to the credit of the Institution, in the Public Treasury, on 1st Feb. 1849, of \$9,758 90

Annual Appropriation, from 1st February to 1st Nov. 1849,	3,750 00
Special Appropriation for Outbuildings, &c.,	2,500 00
From Counties for 18 Pupils,	1,350 00
Annual Appropriation for 1850,	5,000 00

\$22,358 90

Deduct disbursements from 1st Feb. 1849, to 1st Nov. 1850,	17,054 45
------------------------------------------------------------	-----------

Balance in Public Treasury, Nov. 1, 1850,	\$5 304 45
-------------------------------------------	------------

Respectfully submitted,

Nov. 15, 1850.

THOS J. LEMAY, Tr.

MEMORIAL

TO THE

LEGISLATURE OF NORTH-CAROLINA,

ON THE

EXTENSION OF THE CENTRAL RAIL ROAD

TO THE

TOWN OF NEWBERN.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

Senate, Dec. 9, 1850. Presented by Mr. WASHINGTON. Read and referred
to Committee on Internal Improvements and ordered to be printed.

EXTENSION OF THE CENTRAL RAIL ROAD

TO THE

STATE OF NEW YORK

RAILROAD

THOS. A. LEAHY, Printer to the Senate

1850.

MEMORIAL.

To the Honorable, the Senate and House of Commons of the State of North Carolina, in General Assembly convened.

The memorial of the undersigned citizens of the Counties of Craven, Jones, Lenoir, Greene, and others, respectfully sheweth unto your honorable body, that the town of Newbern is, and ever has been, the principal market town and shipping port for the produce of all that section of country embraced between the waters of the Tar river on the north, and the Whittock river on the south, and extending as far into the interior of the State as the Counties of Wayne and Johnston—the population of which said district numbers about 54,000 persons, and producing among other things, 3,180,000 bushels of corn, 167,145 head of hogs, 3,650,000 pounds of cotton, 270,000 barrels of Turpentine, and lumber to the value of 80,000 dollars; besides having \$700,000 capital invested in commerce, and \$250,000 in manufactures, the greater part of which said productions has heretofore been shipped from and through the port of Newbern. In addition to all which, the trade of the said town with the Western counties of this State has heretofore been carried on by means of wagons, to a very large and considerable extent. The merchant receiving the productions of the West, consisting of flour, lard, pork, bacon, Whiskey, tobacco, butter, &c., in quantities sufficient to supply the home demand, and leaving a large surplus for exportation; and exchanging therefor the products of the West Indies and Northern markets.—The Western trade demanding West India produce, and furnishing the means to an extent which kept over sixty sail of vessels actively and constantly employed in that branch of business alone. The imports and exports of said town being some millions in value, and both the town and surrounding country exhibiting a degree of prosperity and advancement, which was truly cheering and encouraging to a patriotic bosom.

And your memorialists further shew, that since the system of Internal Improvements, adopted and prosecuted with so much energy and wise foresight by the State of Virginia on the north, and South Carolina on the south of us, opening up facilities and means of communication to their own markets from the very bowels of our own State, by the superior advantages of their Rail Roads and other modes of transportation, our planters from the west, from the north and from the south, have been induced by the greater ease with which they can reach the markets and ports of other States, entirely to neglect and abandon our own towns and sea-ports, and transfer their whole trade, with all the profits arising therefrom, to the Commercial marts of other States, thereby depriving our own citizens of the wealth arising from such commerce and traffic, and almost entirely estranging citizen from citizen, and creating a feeling of coldness and indifference between the Eastern and Western sections of our State. In illustration of which facts, your memorialists would cite your Honorable body to the single article of tobacco, of which, this State produces 17,000,000 of pounds; scarce a pound of which passes through our own ports, nor does the State of North Carolina even get the credit abroad of producing a pound of that valuable and highly important staple; Virginia manufactures it, Virginia ships it, Virginia makes the profit on it, and Virginia receives *all the credit for it*.

And your memorialists further shew, that in consequence of said Internal Improvements and other facilities possessed by neighboring States, and our own utter destitution of any other means of transportation than the common wagon and carts of the country, the great Commercial and Shipping interests of this State are now in a very precarious and languishing condition; the trade of the west which heretofore bouyed up and sustained the same, has been drawn off to swell the commerce and enrich the citizens of other States; and instead now of receiving the bacon, lard, flour, tobacco, whiskey, butter, &c., from the west in an abundance, not only to supply the demand for home consumption, but with a large surplus for exportation, and thus using the productions of our own State and contributing to the wealth of our own agriculturist, and in return supplying him with the productions of other marts, we are now actually importing for home consumption of Northern pro-

duce; Flour to the amount of 7000 barrels; lime 4000 barrels; pork 3100 barrels; butter 37,500 pounds; whiskey 1921 barrels; hay 94,200 pounds; coal 300 tons; potatoes 4200 barrels; cheese 25,000 pounds; tobacco 10,000 pounds; buckwheat, vinegar, &c., &c., besides larger quantities of such dry goods and wares, as are now being manufactured in the west and within the borders of our own State; and instead of sixty vessels and more being engaged in supplying the demands of our trade with the West Indies, the sailing of a vessel for those Islands is but an occasional thing; and the produce of those places which we now consume, actually reaches us by way of and through the port of New York. To so low an ebb has our once flourishing trade and commerce sunk in consequence of the want of adequate facilities for intercommunication with our own citizens of the interior,

In consideration of the premises, and forasmuch as the only remedy for these evils which the experience of your memorialists suggests should be devised, is, the construction and building of a Rail Road in connexion with the Central Rail Road, and from the terminus of the same, to the said port of Newbern, thereby affording those facilities for internal commerce, communication and exchange, of which we are now entirely destitute, and of which we so severely feel the need, enabling us again to build up our depressed trade, commerce and manufactures, and developing those resources of our native State which should place us foremost in the rank of wealth, power and improvement amid our sister States, and to the sustaining and perfecting this work of most obvious necessity, we confidently look to the fostering care and patriotic devotion of your Honorable body, and to aid and assist them in carrying out this most laudable work, your memorialists do humbly pray your honorable body to grant them a Charter for a Rail Road to extend from the terminus of the Central Rail Road to the town of Newbern, with the privileges, immunities and restraints, and upon the same terms and conditions as the charter granted by your honorable body to the said Central Rail Road Company; and that the State may become interested to the same extent in the Stock thereof, and that your honorable body will grant such other and further aid and relief in the premises as the nature and circumstances of this case may require, and as to your honorable body shall seem meet,

And your memorialists as in duty bound will ever pray, &c.

John Blackwell,
 J. R. Justice,
 Richard N. Taylor,
 E. K. Stanly,
 Wm. H. Mayhew,
 Emmet Cutlibert,
 Wm. H. Pearce,
 Charles Kelley,
 Isham Jackson,
 J. R. Allen,
 Sebastian Bangert,
 Bryan Jones,
 J. Graham Tull,
 John S. Winthrop, Jun.,
 Rufus W. Bell,
 J. E. Morris,
 W. Gray,
 Jos. J. Roberson,
 Isaac W. Hughes,
 M. W. H. Surnell,
 John S. Gaskill,
 Thomas C. Willis,
 Wm. B. Darling,
 John Hutchinson,
 Alex. Justice,
 John A. Crispin,
 Chas. C. Clark,
 Moses W. Jarvis,
 Thos. Fairbairn,
 George F. Fisher,
 W. W. Fife,
 J. N. Stevenson,
 Lewis Phelps,
 James Hancock,
 George P. Young,
 Elijah Lovet,
 L. B. Hutson,
 John H. Hutson,
 Amous Squirrs,
 Bathnobbell,
 Wm. Dunn,
 G. W. Street,
 Gifford Warren,
 H. C. Lucas,
 James Muse,
 Parker J. Smith,
 John F. Jones,

William H. Oliver,
 James B. Emery,
 Jas. W. Carmer,
 J. M. F. Harrison,
 J. D. Flanner,
 Joseph W. Jones,
 Robt. D. Dunn,
 H. D. Whitehurst,
 John Gilburn,
 L. B. Huggins,
 John D. Mayo,
 J. S. Woodbridge,
 Henry Covert,
 Arnon Joyuer,
 Cicero M. Davis,
 A. C. Blount,
 Solomon Witherington,
 Lacy Phillips,
 M. Mathews,
 Rigdon Moore,
 Otis Porter,
 Joshua Bessee,
 Alex. Miller,
 John F. Hauff,
 Daniel W. Hurt,
 Wm. T. Willis,
 Asa Brooks,
 Titus Carr,
 Henry I. Green.
 E. Ferguson,
 John S. McCotter,
 John Dibble,
 Samuel G. Duffy,
 William Laylort,
 Michael Linton,
 John D. Homeblue,
 T. C. Foreman,
 Jamer Hayward,
 Charles Slover,
 Wm. L. Sears,
 T. C. Smith,
 Thomas Wilborn,
 H. C. Wood,
 B. Oliver,
 Jas. S. Wallace,
 Jas. W. Gaskill,
 S. S. Willis,

William Jones,
 Samuel Oliver,
 Alex. Mitchell,
 D. T. Carraway,
 F. A. Carraway,
 Miles Brothers,
 Chas. S. Allen,
 Jas. F. Nelson,
 John Parrit,
 A. Dixon,
 J. M. C. Brinson,
 C. H. Hurt,
 A. Seans,
 Thomas J. Hyson,
 Thomas S. Gooding,
 M. Street,
 George W. Blaney,
 John N. Hyman,
 Robert S. Kershaw,
 S. F. Street,
 G. W. Howard, Jun.
 Wm. Williams,
 C. Hancock,
 Benj. M. Cook, esq.,
 Wallace Piver.
 George Smith,
 A. Sampson,
 John Smith,
 Frances Fulcher,
 Caleb Broten,
 Pharo Lewis,
 John Willson,
 Abel Howard,
 Deaml Jackson,
 Noa Baret,
 George Smith,
 Giffurd Gakins,
 George Allen,
 Samuel Mastins,
 J. A. Meadows,
 J. M. Gooding,
 Zachens Brown,
 B. B. Lane,
 James W. Cox,
 W. C. White,
 Wm. Simmons,
 Z. Slade,
 George W. Nanee,
 William Wilson,

Jesse D. Beall,
 John Charlotte,
 Alex. H. Stanly.
 E. Osborne,
 John Harvey,
 Nelson Whitford,
 John S. Hunter,
 John C. Coart,
 A. H. Barrow,
 Geo. W. Dixon, Jr.,
 William Hay,
 Jacob Gooding, Jr.
 J. B. Oxby.
 H. E. French,
 Thomas Gray,
 F. Hover,
 Jerry Merret,
 Robert Harvey,
 J. Cicero Justice,
 Wm. H. Harvey,
 John Taylor,
 Rile Lathinghouse,
 Lemuel Day,
 James Smith,
 John Allen,
 John Howard.
 A. H. Richardson,
 L. R. M. White,
 M. Phillips,
 H. Brinson,
 Joseph A. Williams,
 John Sears,
 E. Abramandeleer,
 Samuel W. Morris,
 Ww. B. Wood,
 Parson Pittman,
 S. B. Forbes,
 John C. Comeron
 John Danes,
 William C. Willis,
 George Salten,
 Joseph Gaskill,
 Daniel Lockhart,
 Samuel S. Smith,
 Ossian Hanks,
 James J. Howard,
 Wm. P. Roberson,
 Thomas J. Howard,
 Wm. P. Moore,

James A. Seydam,
 Henry Creekman,
 John Creekman,
 John L. Stranbury,
 Frederick A. Moore,
 John B. Lane,
 Benjamin B. Brooks,
 John Kershaw,
 Charles D. Fulcher.
 W. G. Singleton,
 Henry M. Allen,
 N. S. Brown,
 Joseph Gaskin,
 Wm. C. Whitford,
 Jesse Gaskins
 John D. Whitford,
 E. Harvey,
 John Bryant,
 John Creekman, Jr.,
 W. H. Jones,
 William G. Bryan, Jr.,
 D. W. Gosby,
 John L. Dulan,
 J. M. Agostine,
 J. Disosway,
 John B. Waltar,
 B. W. Brown,
 J. S. Cummings,
 W. D. Hutchins,
 E. Colbut,
 R. B. Brown,
 R. A. Davis,
 H. B. Sam, Jr.,
 W. J. Williams,
 J. Mildrum,
 B. Bentmyen,
 John Hill,
 L. R. Clank,
 Silas Shatham,
 Alozo D. Willis,
 M. A. W. Elmer,
 J. Burrow,
 W. Hamilton,
 J. A. Smith,
 J. M. Roberts,
 W. Foy,
 D. Strutten,
 J. J. Streets,
 F. C. Metts,

George G. Smith,
 John Osgood,
 Isaac Lewis,
 John M.^r Webster,
 Geo. Cooper,
 Edward Hardy,
 C. J. White,
 D. W. Dndley,
 D. D. Sirmond,
 Joseph P. Cosey,
 Jonathan R. Baily,
 William Baily,
 R. A. Richardson,
 H. W. Jones,
 John W. Gifford,
 R. Castix,
 C. F. McLeod,
 Hizer V. Richardson,
 W. Anderson,
 Jno. Good,
 F. Muse,
 J. H. Muse,
 J. Hamontree.
 A. Bynan,
 B. Bennn
 A. Cummings,
 J. A. Cummings,
 L. C. Robus,
 G. S. Smith,
 J. Elves,
 George Smith
 Charles Netherod,
 R. Speakman,
 J. Ball,
 T. Higley,
 Richard Burk,
 S. Adams,
 James Muer,
 J. Miller,
 Edward Perreiss
 J. T. Borott,
 Edward H. Satter,
 D. Hollus,
 D. W. Hawter,
 E. Stanly,
 R. J. Jones,
 D. Hancock
 T. Jerkins,
 N. S. Richardson,

D Marter,
 N A Bray,
 J Goody,
 J A Gnon,
 J Scott,
 N T Gooding
 S Bishop,
 F J Gardner,
 T S Jennings,
 T M Smith,
 G Gasking,
 O C Pratt,
 T Wilson,
 J Henry,
 J B Moore,
 J W Collins,
 T W Mayhew,
 J Haven
 R Primrose,
 J W Hancock,
 F. Lane,
 A Ireland,
 I Taylor,
 A G Bell,
 T Simpon,
 T Sparrow,
 J Foster'
 L Trott,
 T G Foster,
 J Stanly,
 B. Jones,
 H Russell,
 L Phife,
 J Priest,
 D H Bell,
 S Conoway,
 B. Trott,
 L B Herritage,
 G Allen,
 H B Smith,
 W Jones,
 Edward Hill,
 James W Watson,
 Jonn Saulter,
 D F Arthur,
 James Rose,
 J Pittman,
 B Ethridge,
 J M Arthur,

T M Stevenson
 D W Gaskill,
 J B Huggins,
 S A Dunn,
 J H Lane,
 H B Lane,
 J. Carter,
 J Sincard
 T Wallace,
 J Pitmon,
 J Gooding, Sr.
 G Buley,
 P Sins,
 J W Russell,
 A W Fentress,
 J. C Cole,
 E B Ritter,
 L S Ray,
 J B G Barron,
 G W Conoway,
 J W Oliver,
 D Hasket
 R Hill,
 O M Pittol,
 J A Charlotte,
 S Rin,
 L Stern,
 J Curtis,
 E H Curtis,
 T Green,
 A Green,
 W R Street,
 R Moore,
 B F Tucker,
 E G Davis,
 L C Bishop,
 J Ball,
 James Swhing,
 Solomon Hoves,
 William Hill,
 John Rose,
 E Piver,
 Stephen Jones,
 Thomas Leston,
 Edward G Hall,
 Walter Duffy,
 R N Duffy,
 S M Missellier.
 A L Simmons,

P Lepper,
J Lestis,
R Smith,
J Gooding,
E Rodrick,
W H Gooding,

A N Armanie
J S Ives,
E Baul,
C Pittman,
E Jones.
Benjamin Ellis.

[HOUSE Doc. 90.]

REPORT

FROM

THE COMMITTEE

ON

THE LIBRARY.

RALEIGH :

Thos. J. Lemay, Printer to the State.

1850.

[House Doc. No. 1]

REPORT

HOUSE OF COMMONS, Dec 28, 1850.

[Ordered to be printed with the accompanying Resolutions.]

THE COMMITTEE

THE LIBRARY

WASHINGTON

Thos. J. Lockhart, Printer in the House.

1850

REPORT.

The joint select Committee on the Library, who were instructed by a resolution of this House to examine, in the office of the Secretary of State, the Journals of the Colonial Legislature of North Carolina, and to report upon the expediency and probable cost of printing one hundred copies of each, have instructed me to report the same back to the House, with the following additional report :

That in discharge of the duty imposed on them by said resolution, they have examined the Colonial records, in the office of the Secretary of State, and have found

1. The manuscript Journal of a biennial session of the Assembly of the province of North Carolina, begun and held in the year 1715. This manuscript contains few pages—not more than fifty.
2. Journals of the Assembly of the province of North Carolina, from the year 1754 to 1762, containing in all, matter enough to make a large volume of 500 or 600 pages *octavo*.
3. Journals of the Assembly of North Carolina, from the year 1762 to 1768, containing about 335 pages of manuscript.
4. Journals of the Assembly of the province of North Carolina, from the year 1769 to 1771, containing in all, about 330 pages of manuscript.
5. Journals of the Assembly of North Carolina, from the year 1773 to the year 1775, containing in all about 500 pages of manuscript.
6. Council Book, or records of the proceedings of the Governor and Council of North Carolina, from the year 1734 to 1740, containing matter enough to make a printed volume of 400 or 500 pages *octavo*.
7. Council Book, from 1764 till the revolution.
8. Journals of the provincial Congresses of North Carolina, from the year 1774 till the formation of the State Constitution in 1776.

If any of these records have ever been printed, the copies are now extremely rare and hard to find, but, as the committee believes, the great bulk of this matter has never been in print. These manuscripts contain the most authentic history of the early career of the State in which we live; and some of them are among the oldest official records to be found on the American Continent.

They are, on this account, interesting to the curious read-

er, the historian and the statesman; but, independent of this consideration, they possess an inestimable value, in being the records of the State. Some of this matter is also highly honorable to the State; and in the Journals of the provincial Congresses especially, there are records which should never perish.

All these records are, however, in an unsafe condition—the manuscripts are becoming illegible, are liable to be destroyed by mice and moths, by fire and other possible accidents.

To guard against such contingences, and to ensure the preservation of these precious records, as well as to diffuse information, interesting in itself, and honorable to the State, the Committee earnestly recommend the passage of the following resolutions and bill.

C. H. WILEY,
for the Committee.

RESOLUTIONS

CONCERNING

COLONIAL RECORDS,

INTRODUCED BY

MR. W I L E Y,

FOR THE

JOINT SELECT COMMITTEE ON THE LIBRARY.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

RESOLUTIONS.

HOUSE OF COMMONS, December 28th, 1850.

[Reported by Mr. WILEY from the Committee on Library. Read 1st time and passed, and ordered to be printed with the Report of the Committee on the Library.]

Resolutions, providing for the publication of Colonial Records, and for other purposes.

I. *Resolved*, That Wm. Hill, Secretary of State, and
2 Jas. P. Taylor, State Librarian, be instructed to contract
3 for the printing of one hundred copies of the following
4 records, now in the office of the Secretary of State, viz :
5 (1) Journals of the Assembly of the Province of North
6 Carolina, held in the year 1715. (2) Journals of the As-
7 sembly of North Carolina, from the year 1754 to 1763.
8 (3) do. of ditto from the year 1763 to 1768. (4) do. of dit-
9 to from the year 1769 to 1771. (5) do. of ditto from 1773
10 1775. (6) Council Book, or records of the proceedings
11 of the Governor and Council of North Carolina, from the
12 year 1734 to 1740. (7) do. of ditto from 1764 till the
13 revolution. (8) Journals of the Provincial Congresses of
14 North Carolina, from 1774 till the revolution; and that
15 they have them bound and deposited in the office of the
16 Secretary of State, subject to the future order of this As-
17 sembly.

II. *Resolved*, That Wm. Hill, the Secretary of State,
2 be, and he is hereby instructed to certify to the correctness
3 of each printed copy, to the original, in his office; and
4 that for the cost of printing and binding the said books,
5 the sum of is hereby allowed from any monies in
6 the Treasury, not otherwise appropriated.

III. *Resolved*, That for the duties hereby devolved on
2 the Secretary of State, he be allowed the sum of

IV. *Resolved*, That the Treasurer of the State, be, and
2 he is hereby instructed to secure, in his name, as Treas-
3 urer of North Carolina, the copy-rights of said books, for
4 the benefit of the Literary Fund.

[SENATE Doc. 91.]

A BILL

FOR

ELECTING JUDGES

OF THE

COURT OF PLEAS AND QUARTER SESSIONS

BY

THE PEOPLE

AND

FOR OTHER PURPOSES.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

75

[Introduced by Mr. KELLY. Passed first reading and referred
to Committee on Judiciary, and ordered to be printed.]

A BILL

For electing Judges of the Court of Pleas and Quarter Sessions, by the people and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That from and after the first Thursday in August, 1851, the several Courts of Pleas and Quarter Sessions in this State, that have jurisdiction of pleas shall be held by a Judge to be styled the Judge of the Court of Pleas and Quarter Sessions for each county respectively and by two associate Justices of the Peace, and said Judge and Justices when elected and qualified as hereinafter prescribed shall hold said Courts for the counties in which they are respectively elected for the term of four years from and after their election and qualification and until their successors are elected and qualified and shall continue to have and exercise all the power and jurisdiction now had and exercised by the Courts of Pleas and Quarter Sessions.

II. *Be it further enacted,* That on the first Thursday in August next, an election shall be held to elect a Judge and two associate Justices to hold the Courts of Pleas and Quarter Sessions in each county in which said Courts have jurisdiction of Pleas; and the said several Courts, at their terms next preceeding the first day of August next, shall appoint persons to hold and superintend said elections under the same rules and regulations as superintendents are appointed and elections held for members of the General Assembly; and on or before the second day after said election the said superintendents shall make due return thereof to the Clerk of the Court of Pleas and Quarter Sessions, whose duty it shall be to compare the vote

14 and pronounce the persons receiving the highest vote
15 duly elected Judge and associate Justices of the Court of
16 Pleas and Quarter Sessions for his county for the term
17 aforesaid, and shall file among the records of his office
18 the election returns, and shall forward and cause to be
19 filed in the office of the Secretary of State a certificate
20 under his official seal of the persons thus duly elected.

III. *Be it further enacted*, That none shall be eligible
2 to the office of Judge but men of "ability integrity and
3 learned in the law," and the two associate Justices shall
4 be elected from the number of the Justices of the Peace
5 for each county, and all persons entitled to vote for mem-
6 bers of the House of Commons shall be entitled to vote
7 at the election for said officers.

IV. *Be it further enacted*, That the several Judges
2 elected by the provisions of this act, shall before they act
3 as Judges, take the oath appointed for the qualification of
4 public officers and also an oath of office, that they shall
5 be liable to impeachment and removal from office in the
6 same way as Judges of the Superior Court are, and may
7 resign their office at any time to the Court of Pleas and
8 Quarter Sessions, a majority of whom shall have power
9 to fill the vacancy occasioned by such resignation for the
10 unexpired term.

V. *Be it further enacted*, That all county business, re-
2 quiring a majority of the Justices, shall be transacted by
3 the Judge, the associate Justices and the other Justices
4 of the Peace for the county, and a majority of the Justi-
5 ces will be necessary in all cases now requiring the
6 same.

VI. *Be it further enacted*, That all acts and duties
2 now required to be performed by the Chairman of the
3 Court of Pleas and Quarter Sessions shall in future be
4 performed by the Judge to be elected by virtue of this act,
5 and the said Judge shall preside in all meetings of the
6 Court of Pleas and Quarter Sessions for transacting pub-
7 lic business and requiring a majority of the Justices, but

8 shall not vote except in case of an equal division of all
9 the Justices present.

VII. *Be it further enacted,* That the said Judge and
2 associate Justices shall preside at each term of the Court
3 and in all issues to be tried by a Jury it shall not be law-
4 ful for the Judge in delivering his charge to the Jury to
5 give any opinion, whether a fact is fully proved; but it is
6 hereby declared to be the duty of the Judge, in such cases,
7 to State in a full and correct manner the facts given in
8 evidence and to declare and explain the law arising there-
9 on.

VIII. *Be it further enacted,* That hereafter it shall not
2 be lawful for the party cast in the trial of any issue of
3 fact to appeal from the judgement of the Court of Pleas
4 and Quarter Sessions to the Superior Court; but for any
5 error of law committed by the Judge, the party dissatis-
6 fied may appeal, either to the Superior or Supreme Court,
7 first giving security as is now prescribed by law.

IX. *Be it further enacted,* That each Judge, by this
2 act authorised to be elected, shall receive for his services
3 sixty dollars for each term of the Court over which he
4 shall preside, the same to be paid to him by the proper
5 officer out of any county funds on hand, on the certifi-
6 cate of the Clerk that the services have been rendered, and
7 the associate Justices shall receive the same pay and in
8 the same manner that the Justices holding the County
9 Court are now paid, and the said Court, at the time and in
10 the manner that other Taxes are laid, shall have power to
11 levy a Tax to pay the services of said Judge.

X. *Be it further enacted,* That the Court of Pleas
2 and Quarter Sessions, a majority of the Justices being
3 present, may at any time dispense with holding Jury trials
4 in their respective counties for one or more terms thereof,
5 in each year, if, in their opinion the state of their docket
6 will justify the same.

XI. *Be it further enacted,* That all laws and clauses

2 of laws coming in conflict with the provision of this act,
3 be and the same are hereby repealed.

XII. *Be it further enacted*, That this act shall be in
2 force from and after the first day of August next.

[SENATE DOC. 92]

REPORT

OF THE

COMMITTEE ON EDUCATION & LT'Y. FUND

ON THE

BILL TO INCORPORATE UNION INSTITUTE

AS A

NORMAL SCHOOL.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

R E P O R T

The Committee on Education and the Literary Fund have had a "Bill to incorporate Union Institute, in Randolph a Normal School," under consideration, and have directed their Chairman to report the same back to the Senate, and recommend its passage.

WM. B. SHEPARD, *Chairman.*

[SENATE Doc. 92.]

A BILL

TO

INCORPORATE UNION INSTITUTE

IN

RANDOLPH COUNTY,

A

NORMAL COLLEGE.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

[Senate Dec. 4, 1850. Introduced by Mr. LANE. Passed first reading and referred to Committee on Education and Literary Fund.]

[Senate Dec. 13, 1850. Reported from Committee.]

[Senate Dec. 26, 1850. Passed second reading and ordered to be printed.]

A BILL

To incorporate Union Institute in Randolph County, a Normal College.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the present Trustees of "Union Institute, to wit: M. W. Leach, L. M. Leach, Ahi Robbins, Joseph Johnson, James Leach and C. M. Lines, together with Rev. B. B. Craven of said Institute, Hon. A. H. Sheppard of Salem, John A. Gilmer Esq. of Greensboro', Col. Samuel Hargrave of Lexington, J. L. Blackmer Esq. of Salisbury, Rev. A. S. Andrews of Greensboro', Dr. S. G. Coffin of Jamestown, H. B. Elliott Esq., of Randolph, J. W. Thomas Esq., of Davidson, John B. Troy, of Randolph, J. P. H. Russ, of Randolph, Eli Russell, of Montgomery, and Gen. J. M. Leach, of Lexington, and their successors, be and they are hereby declared a body politic and corporate to be known and distinguished by the name and style of the Normal College, and by that name shall have a perpetual succession, and a common seal, and be able and capable in law of holding lands, tenements and chattles, sufficient for the uses and purposes of said College, and of suing and being sued, and of pleading and being impleaded.

II. *Be it further enacted,* That said Trustees shall have power to fix the time of holding the annual and other meetings, and to prescribe the manner in which vacancies in their body may be filled, five Trustees being a quorum to do business.

III. *Be it further enacted,* That the said College shall be under the supervision, management and government of a President and such other persons as said Trustees may appoint, the said President with the advice of the other persons so appointed shall from time to time make all needful rules and regulations for the internal government of said College, and fix the number and compensa-

8 tion of Teachers to be employed therein, to prescribe the
9 preliminary examination, and the terms and conditions
10 on which pupils shall be received, and instructed, and
11 the number of pupils to be received from the respective
12 counties.

IV. *Be it further enacted*, That said Trustees shall
2 have power to make such rules, regulations and by-laws,
3 not inconsistent with the Constitution of the United States
4 and of this State, as may be necessary for the good gov-
5 ernment of said College, and the management of the
6 property and funds of the same.

V. *Be it further enacted*, That when any pupil shall
2 have sustained a satisfactory examination on the studies,
3 or course of studies prescribed by the Faculty and Trus-
4 tees of said College, such persons shall be deemed quali-
5 fied to teach common schools and may receive a certifi-
6 cate signed by the President and at least seven Trustees,
7 which certificate shall be sufficient evidence of ability to
8 teach in any of the common schools in this State, without
9 any re-examination of the County Committee, and where
10 county certificates are now required before paying out the
11 public funds, the certificate of the Normal College shall
12 answer in lieu thereof.

VI. *Be it further enacted*, That the whole College
2 course shall be divided into four classes or degrees, styled
3 first, second, third and fourth, and students shall be rank-
4 ed accordingly.

VII. *Be it further enacted*, That when a student shall
2 have satisfactorily completed a course of studies, pre-
3 scribed as aforesaid in said College, he may receive the
4 degree of *Master Teacher*, the diploma being signed by
5 the President and at least seven Trustees, and this diplo-
6 ma shall serve all the purposes mentioned in the fifth
7 section of this act.

VIII. *Be it further enacted*, That, if after graduating,
2 any person shall spend three years, faithfully in teaching,
3 still maintaining a good moral character, such person may

4 receive from the Normal College the degree of Master of
5 Arts, the diploma being signed as herein prescribed.

IX. *Be it further enacted*, That the superintendents
2 of common schools are authorized to send scholars to the
3 Normal College, and pay the amount of their tuition from
4 the common school fund of the counties whence the schol-
5 ars come, but the Board of Superintendents of each coun-
6 ty must first select and determine on the scholars to be
7 sent, and give them a certificate of such appointment,
8 which certificate must be produced when the tuition mon-
9 ey is drawn.

X. *Be it further enacted*, That all the pupils entering
2 said College shall first sign a declaration, in a book to be
3 kept by the President for that purpose, as follows: "We
4 the subscribers hereby declare that it is our intention to
5 devote ourselves to the business of teaching common
6 schools in the State of North Carolina, and that our sole
7 object in resorting to this Normal College, is the better to
8 prepare ourselves for that important duty," which declara-
9 tion it shall be the duty of the President to explain to the
10 pupils before they sign the same.

RESOLUTIONS

ON

THE SLAVERY QUESTION

INTRODUCED INTO THE

SENATE OF NORTH CAROLINA.

ON

DECEMBER 31, 1850.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

RESOLUTIONS ON SLAVERY.

SENATE, December 31, 1850.

[Introduced by Mr. EDWARDS, and ordered to be printed.]

I. *Resolved*, That, in the opinion of this General Assembly, North Carolina, is deeply devoted to the Union of the States, and will, to the utmost, endeavor to preserve and perpetuate it, so long as the Union itself shall secure the great and beneficent purposes for which it was formed.

II. *Resolved*, That while we do not approve of all the provisions of the compromise by Congress, called *the adjustment*, still, from a fraternal spirit of forbearance towards our Brethren, in the non slave-holding States; and a sincere and heartfelt attachment to the Union, we are willing to acquiesce in said compromise—*honestly and faithfully* carried out.

III. *Resolved*, That, while we are disposed to accept the said compromise as the *work of peace*, we deem it a sacred duty to warn the people of the free States against any further encroachments upon our rights, and to declare *explicitly*, that, in the opinion of this General Assembly, North Carolina *would*, and *ought* to regard as entirely inconsistent with her longer continuance in the Union, the *abolition* of slavery in the District of Columbia by Congress, *without the consent* of the slave-holding States, and *incompatibly* with their safety and interests, or *any act of Congress*, prohibiting the citizens of one slave-holding State from removing their slaves to any other slave-holding State, or a *refusal* by Congress to admit into the Union as a State any Territory belonging to the United States on account of the existence of the institution of domestic slavery within its limits, or *any act* applying the dangerous and mischievous principle of the *Wilmot Proviso* to the Territories of Utah and New Mexico, or *any act* which repeals the recent *act* for the reclamation of fugitive slaves, or so modifies the same as essentially to impair its efficiency and usefulness.

[SENATE Doc. 93.]

A BILL

TO ASCERTAIN

THE WILL OF THE FREEMEN

OF

NORTH CAROLINA,

AS TO THE

CALL OF A CONVENTION

ON THE

FEDERAL BASIS.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1850.

[SENATE, Dec. 31, 1850.]

A BILL

SENATE, Dec. 31, 1850.

[Introduced by Mr. GILMER. Passed 1st reading, and ordered to be printed.]

NORTH CAROLINA

CALL OF A CONVENTION

FEDERAL BASIS

RECEIVED

Thomas J. Lantry, Printer to the State

1850

A BILL

To ascertain the will of the freemen of North Carolina, as to the call of a Convention on the Federal Basis.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Courts of Pleas and Quarter Sessions of each and every County in the State, at the first Term that shall be held after the first day of March, A. D. 1851, shall appoint two inspectors to superintend the polls, to be opened at each and every election precinct in said counties, for ascertaining, by ballot, the will of the freemen of North Carolina, relative to the meeting of a Convention, to amend and alter the Constitution of this State, the delegates to which, to be elected on the basis on which the members of the House of Commons are now elected. And if any Court or Courts shall fail to make such appointments, or if any inspector so appointed shall fail to act, it shall be the duty of the Sheriff, or the person acting as his deputy on such occasion, some Justice of the Peace, or freeholder present, to appoint an inspector or inspectors, in the place of him or them, who fail to act, which inspectors, when duly sworn by some Justice of the Peace, or freeholder, to perform the duties of the place with fidelity, shall have the same authority as if appointed by the Court.

II. *Be it further enacted,* That it shall be the duty of the Sheriffs of the respective counties in this State, to open polls at the several election precincts in said counties on the first Thursday in August, 1851, when and where all persons qualified by the Constitution to vote for members of the House of Commons, may vote for or against a State Convention; those who wish a Convention, voting with a printed or written ticket "CONVENTION" and those who do not want a Convention, voting in the same way "NO CONVENTION" or "AGAINST CONVENTION."

III. *Be it further enacted,* That it shall be the duty of the Sheriffs to make duplicate statements of their polls in their respective counties, sworn to before the Clerk of the County Court, one copy of which shall be deposited in said Clerks Office, and the other transmitted to the

6 Governor of the State at Raleigh, within thirty days af-
7 ter said election. And if any Sheriff or other officer
8 appointed to hold said elections, shall fail to comply with
9 the requirements of this act, he shall be liable to a fine of
10 one thousand dollars, recoverable in the County or Su-
11 perior Court, to the use of the county, whose officer he
12 is, in an action of debt, in the name of the State, and it
13 shall be the duty of the County Solicitors to prosecute
14 such suits.

IV. *Be it further enacted*, That it shall be the duty
2 of the Governor to communicate to the next General As-
3 sembly, the result of said election, in order that said
4 Assembly may *certainly* know whether the freemen of
5 North Carolina are willing to trust *their* Constitution in
6 the hands of delegates elected by *themselves* on the said
7 Federal basis:

A BILL

TO

INCORPORATE

THE

ALBEMARLE

AND

CURRITUCK CANAL COMPANY.

DECEMBER 27th, 1850.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

Ho. Coms., Dec. 27. 1850.

[Introduced by Mr. T. WILSON. Read first time, and passed, and referred to the Committee on Internal Improvements, and ordered to be printed.]

A BILL

To incorporate the Albemarle and Currituck Canal Company.

Whereas, The establishment of a communication between the waters of Currituck Sound, and those of the North River, by means of a suitable Canal, will remove a great, and, at present, insurmountable impediment to the profitable energies and enterprise of the citizens of North Carolina, residing in the vicinity of her great Northern water courses, and their tributaries; *And whereas* the construction of such a work would prove of great public utility, by lending an additional stimulus to the Agricultural and Commercial interests of the State, and for the accomplishment of which said work, many persons are disposed to contribute largely of their means.

I. *Be it therefore enacted*, That it shall and may be
2 lawful to open Books at Currituck Court House, under the
3 direction of B. T. Simmons, Tully L. Dozier, John B. Jones,
4 Edmund Simmons and Edward Morton; at Elizabeth City,
5 under the direction of William Glover, Timothy Hun-
6 ter and Charles M. Saverty; at Edenton, under
7 the direction of Thomas D. Warren, T. L. Skinner
8 and James Norcom, Jr.; at Plymouth, under the direction
9 of J. M. C. Bogle, Wm. B. Nichols and Thos. E. Pender;
10 at Williamston, under the direction of Nathan Thompson,
11 W. H. Bayley and Asa Diggs; at Halifax, under the
12 direction of H. I. Hervey, N. M. Long and Andrew
13 Joyner; at Columbia, under the direction of S. S. Sim-
14 mons, Thomas Davenport and Isaac Casey: at Hyde
15 Court House, under the direction of David Carter, Thomas
16 Mann, and Richard I. Wynne; and at Washington, in Beau-
17 fort county, under the direction of B. F. Hanks, Dr. Jno.
18 Norcom and W. H. Willard, for receiving and enclosing
19 subscriptions to the amount of Two Hundred Thousand
20 Dollars for the said undertaking, which subscriptions shall
21 be made personally, or by power of Attorney, in the pre-
22 sence of any two, or more of said Commissioners. That

23 the said Books shall be opened on the first Monday in
24 March next, and shall continue open, until the last Sa-
25 turday in May next, inclusive, and on the third Monday
26 in June next, there shall be a general meeting of the sub-
27 scribers, at Currituck Court House, of which meeting the
28 said commissioners hereby deputed to open Books at
29 Currituck Court House, shall give twenty days notice,
30 in one of the newspapers published in Elizabeth City, and
31 in the City of Norfolk, Va., and such meeting shall have
32 power to adjourn from day to day, until the business for
33 which they may have assembled, shall be completed and the
34 said commissioners shall at the time and place aforesaid, lay
35 before such of the subscribers, as shall meet according to said
36 notice, the books by them respectively kept, containing the
37 state of the said subscriptions, and if one fourth of the capital
38 sum aforesaid, should on examination appear not to have
39 been subscribed, the said commissioners are empowered
40 to take and receive subscriptions to make up the deficien-
41 cy. Should the return of the subscriptions taken, be
42 found to exceed the amount of said capital stock, then the
43 said subscriptions shall be proportionally scaled down to
44 agree with the amount before specified, and the said cap-
45 ital sum, shall be reckoned, and divided into two thousand
46 shares of one hundred dollars each.

II. *Be it enacted*, That in case one fourth of the said
2 capital, or a greater sum shall be subscribed as aforesaid,
3 the said subscribers, their executors and assigns, from the
4 time of the said first meeting, shall be, and are hereby de-
5 clared to be incorporated into a company, by the name of
6 the Currituck and Albemarle Canal Company, and as such
7 are hereby invested with the power of suing and being
8 sued. Such of the subscribers as shall be present, or re-
9 presented in said meeting, or a majority of them, are here-
10 by empowered and required to elect a President, and six
11 Directors, for conducting and managing said undertak-

12 ing, for and during such time, not exceeding two years,
13 as the said subscribers, or a majority of them; shall
14 think fit. And in counting the votes of all general
15 meetings of said company, each member shall be allowed
16 one vote for every share, as far as ten shares, and one
17 vote for every five above ten, by him or her held at the time,
18 in said company, and any proprietor, by writing under
19 his or her hand, and executed before two witnesses,
20 may authorise any other member or proprietor to vote
21 and act as proxy for him or her, at any general meeting.

III. *Be it enacted*, That the said President and Directors, and their successors, or a majority of them, when assembled, shall have power, and authority, to agree with any person, or persons, in behalf of said company, to cut the said Canal and execute such other works, as shall be deemed necessary for the due navigation of said Canal. To repair and keep in order said Canal, and such works as are necessary thereto, and to defray all costs, and incidental charges arising from said improvements, to appoint such toll gatherers, managers, and operatives, as they shall deem requisite, to make and establish rules of proceeding, and transact all the other business and concerns of said company, in and during the intervals of the general meetings of the company.

IV. *Be it enacted*, That the proprietors of said company, at their general meetings, shall have the power to elect a Treasurer for said company, to define his duties and rate of compensation, and to make all such other needful rules and regulations, touching the same, as in their estimation, may be conducive to the interests of said company, and to make and establish such other officers, with their duties and rules of compensation, as may be deemed expedient; to elect a President and Directors for said company; to fill all vacancies in all the offices of said company, and generally at said general meetings, to do and perform all acts and things touching the due re-

13 gulation, and management of said company, as may be
14 deemed expedient, and not inconsistent with the provis-
15 ions of Law.

V. *Be it enacted*, That the President and Directors
2 of said company, before entering upon the duties of
3 their office shall take an oath, or affirmation for the due
4 performance of their respective duties.

VI. *Be it enacted*, That the presence of proprietors
2 having a majority of the shares actually subscribed, in
3 person, or by attorney, shall be necessary to constitute
4 a general meeting, and that said meeting, shall be held
5 once in every year, at such convenient place and time, as
6 shall be appointed by said general meeting, with power
7 to adjourn from day to day, until their business is com-
8 pleted, and should a majority of the stockholders, be not
9 present, or represented on the first day appointed for said
10 meeting, those present may adjourn from day to day, un-
11 til a general meeting, in conformity with the above pro-
12 visions shall have been attained, and, in any emergency,
13 in the interval of said meetings, the President, or a ma-
14 jority of the Directors, may call a meeting of the compa-
15 ny, at any convenient place, giving one month's previous
16 notice in some newspaper published in Elizabeth City or
17 the City of Norfolk, Va.

VII. *Be it enacted*, That in consideration of the hea-
2 vy expense to which the company will be subjected, in
3 cutting and keeping in repair, said Canal, and its appurte-
4 nances. The said President and Directors are hereby em-
5 powered, at all times hereafter, to demand and receive,
6 at appropriate places in said Canal, for all commodities
7 transported through the same, and on all vessels passing
8 through said Canal, such rate of tolls, as the said compa-
9 ny may establish: *Provided*, that said rate or tariff of
10 tolls shall never exceed the amount now allowed to be
11 charged on similar articles, or vessels, for transporta-

tion through the Dismal Swamp Canal, as established by Law, under the charter of said company.

VIII. *And be it further enacted*, That in case of refusal to pay the tolls as assessed by the said President and Directors, at the time of offering to pass the places at which they may be demanded, as aforesaid, the collector of said tolls may refuse passage to whatever refuses payment, and if any vessel shall pass without paying toll, and shall still refuse to pay said toll, when demanded, the said collector may seize said vessel, wherever found, and sell the same at public auction, the proceeds of which sale, shall be applied, so far as may be necessary, to the payment of said tolls, and all expenses of seizure and sale.

IX. *And be it further enacted*, That it shall, and may be lawful for the said President and Directors or a majority of them, to agree with the owners of any land through which the said Canal is intended to pass, for the purchase thereof, and in case of disagreement, or from other cause preventing said purchase, such as infancy, the owner being a *Feme Covert* &c., on application to any two Justices of the county, in which said land shall lie, the said Justices shall issue their warrant, under their hands, to the Sheriff of the county, to summon a Jury of eighteen Freeholders of said county, not related to the parties in any manner interested, to meet on the land to be valued, at a day to be expressed in the warrant, not less than ten, nor more than twenty days thereafter, and the Sheriff on receiving said warrant shall forthwith summon said Jury, and when met, provided that not less than twelve shall appear, shall administer an oath, or affirmation to each of the twelve Jurymen, "that he will fairly, justly and impartially value the land, not less than 300 feet in width, and all damages the owner thereof shall sustain, by cutting said Canal through such land, according to his best skill and judgment," and the inquisi-

tion thereon taken, shall be signed by the Sheriff, and some twelve or more of the Jury, and returned to the Clerk of his county, to be recorded, and the valuation of the Jury thus made and certified, shall be conclusive on all persons, and shall be paid by the said President and Directors, to the persons legally authorized to receive the same, and on payment thereof, the said company shall be seized in fee of such land, as if conveyed to them, and their successors, by legal conveyance. *Provided,* That the said company are hereby authorized to hold and possess, by purchase, or otherwise, such quantity, or parcels of land, near the places set apart for the receipt of tolls, as they may deem necessary, for the erection of suitable buildings, or any other useful purpose, not exceeding 100 acres of land, at each place.

X. *And be it further enacted,* That the capital stock of said company, if at any future time it may be deemed desirable, may be increased to the sum of \$500,000, by the addition of so many whole shares as may be adequate to that purpose; observing the same rules and method in obtaining said additional stock, as are herein before described, and all proprietors of such additional shares shall, and are hereby declared to be incorporated into said company.

XI. *And be it further enacted,* That the stockholders in the company hereby incorporated, shall have full power, and authority, to designate the route to be pursued for the purpose of effecting the contemplated communication between the waters of Currituck Sound, and the North River.

XII. *And be it further enacted,* That this Act shall be in force from the passage thereof.

[House Doc 96.]

A BILL

TO

PROVIDE

FOR

A MORE THOROUGH

AND

EFFICIENT ADMINISTRATION

OF THE

LAW IN RELATION TO COMMON SCHOOLS

JANUARY 1st, 1851.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

HOUSE COMS. Jan. 1st, 1851.

[Introduced by Mr. RAYNER. Read first time and passed, and, on motion of Mr. Scott, ordered to be printed.]

A BILL

To provide for a more thorough and efficient administration of the law in relation to Common Schools.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall hereafter be the duty of the several County Courts in this State, eleven Justices being present, at the term when the county taxes are laid, or at the first term which may be held after the first day of March in each and every year, to levy a tax as other taxes are now laid, for the support of Common Schools, which shall not be for less than one half the estimated amount to be received by said county, from the Literary Fund, for said year. It shall be the duty of the Clerk of the County Court, for each and every county, in making out the tax list for the Sheriff, to include in said list, the tax thus levied, in a distinct column, and the Sheriff of each and every county is hereby required to collect the same as he collects other taxes, and when so collected, to pay the amount into the public Treasury, in the same manner and under the same penalties, as he is now required to collect and pay over the other State taxes. The bonds of the Sheriff's of the respective counties, given for the faithful accounting for the public taxes by them collected, shall contain a condition for the faithful collection and payment of said school tax, and the Clerks of the several County Courts in this State are hereby required to prepare and take such Sheriff's bonds accordingly; and in case of the default of any Sheriff in collecting and paying over such school tax, it shall be the duty of the Public Treasurer to move for judgment against him; as he is now required to do by law against default-

30 ing revenue officers, for the amount of the tax, to be esti-
31 mated at one half of what his county may be entitled to
32 under the annual distribution of the proceeds of the school
33 fund, with an additional penalty of two hundred dollars,
34 which is hereby imposed in case of default by any Sheriff
35 as aforesaid.

II. *And be it further enacted*, That it shall be the
2 duty of the Public Treasurer to credit each county with
3 the amount thus paid by, or collected from, the Sheriff
4 of said county as aforesaid, and to furnish to the Presi-
5 dent and Directors of the Literary Fund an abstract, or
6 statement of the same, at some period prior to the first
7 day of November in each and every year.

III. *Be it further enacted*, That it shall be the duty of
2 the President and Directors of the Literary Fund, in ma-
3 king the annual distribution of the nett income of the Li-
4 terary Fund as now directed by law, to add to the quota
5 due each county under said distribution, the amount col-
6 lected and paid in from said county, in manner aforesaid
7 by the Sheriff; and the Comptroller shall give his warrant
8 on the Public Treasurer in favor of the chairman of the
9 Board of Superintendents of Common Schools for said
10 county, as now provided by law, for the aggregate sum.

IV. *Be it further enacted*, That it shall be the
2 duty of the President and Directors of the Literary Fund
3 to make the annual distribution provided for, among the
4 several counties, on the first day of November in each and
5 every year, or as soon thereafter as may be practicable.

V. *Be it further enacted*, That one distribution of the
2 proceeds of the Literary Fund only, shall be made among
3 the several counties in any one year, and the practice of
4 the President and Directors of the Literary Fund in ma-
5 king a partial distribution in the spring shall be discon-
6 tinued.

VI. *Be it further enacted*, That if the County Court
2 of any county in this State shall fail to levy the tax, and

3 the same shall not be collected and paid into the Public
4 Treasury, as herein provided for, it shall be the duty of
5 the President and Directors of the Literary fund to with-
6 hold from said county all and every part of the distribu-
7 tion, share or quota of the school fund to which said coun-
8 ty might be entitled, until the said tax provided for in
9 the first section of this act, shall be paid in, in manner
10 aforesaid.

VII. *Be it further enacted*, That the distributive share
2 of said fund thus withheld from any county, shall be trans-
3 ferred by said President and Directors of the Literary
4 Fund, to the Public Treasury, to be used for public pur-
5 poses as the wants of the Treasury may require, until said
6 tax shall be so laid, collected and paid in, when the same
7 may be passed to the credit of the county, and paid out
8 to the chairman of the Board of Superintendents for said
9 county, in manner as aforesaid.

VIII. *Be it further enacted*, That the chairman of the
2 Board of Superintendents of Common Schools for each
3 county, shall keep a just and true account of all monies
4 received and disbursed by him during the year for which
5 he may have been chairman, to which shall be added such
6 amount as may have remained in his hands unexpended
7 on the settlement of his accounts in any preceding year,
8 setting forth in detail when and of whom the same may
9 have been received; or what account, and to whom paid;
10 and the balance if any remaining on hand, and he shall
11 lay the same before the committee on Finance of his coun-
12 ty, and if there be no committee on Finance, then before
13 the Clerk of the County Court, together with his receipts
14 and vouchers, on or before the first day of October in
15 each and every year: which account it shall be the duty
16 of the committee on Finance, or Clerk of the County Court,
17 as the case may be, carefully to examine, and if found
18 correct, to certify the same, and the said committee or
19 Clerk shall be allowed the same fees or compensation for

20 their services, as are now allowed in auditing and set-
21 tling the accounts of county Trustees, and to be paid in
22 the same manner.

IX. *Be it further enacted*, That it shall be the duty
2 of the said chairman of the Board of Superintendents of
3 Common Schools, for each and every county in this State,
4 on or before the first day of November in each and every
5 year, to make report in writing to the President and Di-
6 rectors of the Literary Fund, a true and accurate copy of
7 the said account so audited and passed upon, together
8 with the number of white children in his county, between
9 the ages of 5 and 21 years; the number of children
10 taught in the schools of his county; the length of time
11 the schools in the several districts of his county may have
12 been kept up the preceding year. And he is hereby re-
13 quired to make two additional copies of said report, one
14 of which he shall file with the Clerk of the Board of Su-
15 perintendents for his county, to be recorded in the min-
16 utes or proceedings of the Board, and the other he shall
17 put up for public inspection in some conspicuous place in
18 the Court-house of his county.

X. *Be it further enacted*, That if any Chairman of
2 the Board of Superintendents of Common Schools in any
3 county in this State, shall fail to make the report provi-
4 ded for in the preceding section, to the President and
5 Directors of the Literary Fund, he shall forfeit and pay
6 the sum of two hundred and fifty dollars, to be collected
7 of him and his sureties, by suit, in the Superior Court of
8 his county. And it shall be the duty of the State's So-
9 licitor for the circuit in which said county may be, to
10 take summary judgment for the said penalty, and the
11 same when collected by the Sheriff, shall be paid over by
12 said Sheriff to the Public Treasurer, to be by him enter-
13 ed to the credit of said county, to be returned to said
14 county under the annual distribution of the proceeds of
15 the school fund. And it shall be the duty of the Presi-
16 dent and Directors of the Literary fund, after the said

17 first day of November in each and every year, to give
18 notice to the several Solicitors for the circuits in which
19 the counties from which no reports have been received,
20 may be ; and the certificate of the said President and
21 Directors of the Literary fund, under the corporate seal,
22 that no such report has been received—and a certificate
23 of the County Court Clerk, under his seal of office, that
24 no copy has been set up in the court house as aforesaid,
25 shall be deemed and held by the Superior Courts before
26 which motions for judgment may be made, sufficient evi-
27 dence on which to render judgment against the Chairman
28 of the Board of Superintendents and his securities, as
29 aforesaid.

XI. *Be it further enacted*, That if, for want of a
2 teacher, school-house, or other cause, there shall be for
3 the space of twelve months no school in any school dis-
4 trict in any county in this State, the share of the school
5 fund of said county to which such school district may be
6 entitled, shall be assigned or transferred to the other
7 school districts in the county in which schools are kept ;
8 and it shall be the duty of the Board of superintendents
9 in each county to make such transfer.

XII. *Be it further enacted*, That it shall be the duty
2 of the school committee-men of the respective school
3 districts in each and every county in this State, to make
4 a report to the Chairman of the Board of Superin-
5 tendents of Common Schools for said county, on or before
6 the first day of October in each and every year, setting
7 forth the number and names of the white children in their
8 respective districts between the ages of 5 and 21 years ;
9 the number and names of those who may have received
10 instruction at said Common Schools during the preceding
11 year, the length of time the schools may have been kept
12 up, the name of the teacher, and the amount paid him ;
13 and such other facts in relation to their schools as they
14 may deem expedient. And if the committee-men of the
15 respective school districts, having accepted the appoint-
16 ment, or any Clerk of the County Court shall refuse to
17 perform the duties thus required of them, the said com-
18 mittee-men, and each of them shall forfeit and pay the
19 sum of fifty dollars, to be recovered by action of debt, in
20 the name of the Chairman of the Board of Superin-
21 tendents for said county, in any court of record in this
22 State, and when recovered, and collected by the sheriff of
23 the county, shall be by him paid over to the Public Treas-

24 urer, at the time he pays over the other taxes of his
25 county, to be by the said Public Treasurer entered to the
26 credit of said county, to be returned to said county under
27 the annual distribution of the proceeds of the school
28 fund. And it shall be the duty of the County Attorney
29 for the State—and in case of the action being brought in
30 the Superior Court, or in case of appeal to said court,
31 then of the State's Solicitor for the circuit in which the
32 county may be—to prosecute suit in all cases for and on
33 behalf of the Chairman of the Board of Superintendents
34 as aforesaid.

XIII *Be it further enacted*, That if the Clerk of any
2 County Court in this State shall fail or refuse to perform
3 the duties required of him by this act, he shall forfeit
4 and pay the sum of one hundred dollars, the penalty to
5 be sued for, and when collected to be paid over in the
6 same name and form; and for the same purpose as in the
7 case of delinquent committee-men as provided for in the
8 12th section of this act.

XIV, *Be it further enacted*, That it shall be the duty
2 of the President and Directors of the Literary Fund, at
3 as early a day as practicable, to have printed, twenty-
4 five hundred copies of this act, to be sent to the Clerks of
5 the County Courts of their respective counties in this
6 State, to be by them distributed among the Superinten-
7 dents and committee men of the district of their counties,
8 the said copies of this act to be distributed among the
9 counties, in the proportion of 22 copies for each member
10 to which said counties may be entitled in the House of
11 Commons.

[House Doc. 97.]

REPORT.

OF THE

JUDICIARY COMMITTEE

ON THE

BILL TO FACILITATE THE COLLECTION

OF

RENTS.



RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

REPORT.

The Committee on the Judiciary, to whom was referred a "Bill to facilitate the collection of Rents," have had the same under consideration, and have instructed me to report the same back to the House, and recommends its passage with the following amendment:

At the end of the first Section insert the following: "provided however, that nothing in this act shall be construed to extend to parol leases of more than three years."

Respectfully submitted,

D. A. BARNES.

A member of the Committee.

[HOUSE Doc. 97.]

A BILL

to

FACILITATE

THE

COLLECTION

OF

RENTS.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

HOUSE COMS Dec. 7th, 1850.

[Introduced by Mr. D. A. BARNES. Read first time and passed,
and refered to Committee on the Judiciary,]

Dec. 13th, 1850.

[Read second time, amended according to the Report of the
Committee, and passed.]

Dec. 20th, 1850.

[Taken up on Mr BARNES's motion, and ordered to be printed.]

A BILL

To facilitate the Collection of Rents.

Whereas, difficulties many times arise in the recovery of rents, where the demises are not by deed. For remedy whereof,

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same*, That it shall and may be lawful, to and for the landland or landlords, where the agreement is not by deed, to recover a reasonable satisfaction for the lands, tenements or hereditaments, held or occupied by the defendant or defendants, in an action on the case, for the use and occupation of what was so held or enjoyed; and if in evidence on the trial of such action any parol demise or any agreement (not being by deed) whereon a certain rent was reserved shall appear, the plaintiff in such action shall not therefor, be nonsuited, but may make use thereof as an evidence of the quantum of damages to be recovered. *Provided however*, that nothing in this act shall be construed to extend to parol leases of more than three years."

II. *And whereas*, where any lessor or landlord, having only an estate for life in the lands, tenements or hereditaments demised, happens to die before or on the day, on which any rent is reserved, or made payable, such rent, or any part thereof, is not by law recoverable by the executors or administrators of such lessor or landlord;

7 nor is the person in revision entitled thereto, any other
8 than for the use and occupation of such lands, tenements
9 or hereditaments, from the death of the tenant for life;
10 For remedy whereof: *Be it enacted by authority afore-*
11 *said,* That where any tenant for life shall happen to die
12 before or on the day; on which any rent was reserved or
13 made payable upon any demise or lease of any lands,
14 tenements or hereditaments, which determined on the
15 death of such tenant for life, that the executors or adminis-
16 trators of such tenant for life shall and may, in an action on
17 the case, recover of and from such undertenant or under-
18 tenants of such lands, tenements or hereditaments, if such
19 tenant for life die on the day on which the same was made
20 payable, the whole, or if before such day, then a proportion
21 of such rent according to the time such tenant for life
22 lived, of the last year or other time in which the said rent
23 was growing due as aforesaid, making all just allowances
24 or a proportionable part thereof respectively.

[SENATE Doc. 98.]

PREAMBLE AND RESOLUTIONS

ON THE

SUBJECT OF THE TARIFF,

&c.

INTRODUCED

BY

MR. BARRINGER.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

PREAMBLE AND RESOLUTIONS.

SENATE, Jan. 2, 1851.

[Introduced by Mr. BARRINGER, Passed first reading, and ordered to be printed.]

Whereas, the Southern States of the Union have long acquiesced in a revenue system, on the part of the Federal Government which it was believed would promote the prosperity and independence of the country at large; but which was understood all the while as peculiarly favoring the mining and manufacturing interests of the North; and, whereas, the advantages accruing to that section, by this system, have seemed only to increase the disposition and ability of the non-slaveholding States to persevere in their unconstitutional, unjust and fanatical aggressions upon the domestic institutions of the South:

I. *Be it therefore Resolved*: That it is the true policy
2 of the slaveholding States henceforth, to oppose any and
3 all increase in the present rates of duty on foreign im-
4 ports beyond what may be absolutely necessary for an
5 economical administration of the General Government.

II. *Be it further Resolved*, That a copy of the foregoing Preamble and Resolution, be transmitted to each of
2 our Senators and Representatives in Congress, with the
3 request that they use their best efforts to carry out the
4 principle herein set forth.

[HOUSE Doc. 99.]

A BILL

TO

IMPROVE

THE

ADMINISTRATION

OF

JUSTICE.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

81

HOUSE COMS. Dec. 21, 1850.

[Introduced by Mr. JAMES SHARP. Read first time and passed
and on motion of Mr. Sharp, laid on table and ordered to be printed.]

A BILL

To improve the Administration of Justice.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the several County Courts in this State, shall appoint a day, and prescribe the mode of holding elections in each Captain's District in the respective counties, to elect one of the acting Justices of the Peace, residing in such District, to hear and determine all civil causes now cognizable before Justices of the Peace, and the Justice receiving the largest number of votes, shall be declared duly elected, and shall hold his office for three years, and shall have exclusive jurisdiction in all actions of debt, and other civil proceedings in such district.

II. *Be it further enacted,* That the Justice so elected shall keep a record of all the proceedings, had before him in a well bound book, to be furnished him by the county Court, and shall carefully file in his office all warrants, judgments and other process returned before him, as Clerks are now required to do, and on going out of office, shall file the same, with the Clerk of the County Court, who shall carefully keep the same.

III. *Be it further enacted,* That it shall be the duty of the Constable of each District, and other collecting officers, to duly return all process executed in his District, before the Justice elected as aforesaid, within the time now required by law, and shall duly endorse thereon, how he has executed the same, and for any failure therein, shall be liable to amercement in the sum of twenty-five dollars, to be recovered by *scire facias*, before said Justice, under the same rules that govern the Courts in relation to amercement of Sheriffs.

IV. *Be it further enacted,* That where any Constable, or other collecting officer, shall return that he has collected any

3 money, on the process in his hands, he shall hold the same,
3 subject to the claim of the Plaintiff therein, and on failure to
5 pay it on demand, shall be subject to suit on his bond, and ten
6 per cent. damages besides interest, or the Plaintiff, may proceed
7 by notice before said Justice, who shall enter up judgment, and
8 issue execution therefor, against said officer, or against him and
9 his sureties, for the debt, and ten per cent. damages, and inter-
10 est at the rate of six per cent., provided he shall have five
11 days notice thereof in writing.

V. *Be it further enacted*, That if any constable, or other
2 collecting officer, shall fail to make return of any execution, on
3 which he has collected money within ninety days, from the
4 issuing thereof, or shall make any false return thereon, he shall
5 be subject to indictment therefor, in the Superior Court of his
6 county, and on conviction, shall be fined and imprisoned at the
7 discretion of the Court, and shall forfeit his office, and be in-
8 eligible to office for three years.

VI. *Be it further enacted*, That all constables, and other
2 collecting officers, shall receive and retain a commission of
3 2 1-2 per cent., and the money collected by them, and on all
4 moneys that may be paid to the Plaintiff, while the claim is in
5 his hands for collection.

VII. *Be it further enacted*, That said Justice may appoint
2 his days of holding his Court, and transacting business, at least
3 one day in every week, and shall receive as a compensation
4 for his services, the following fees, and no more, viz : for every
5 warrant, ten cents; for every judgment, ten cents; for every ex-
6 ecution ten cents; for every attachment and proceeding thereon,
7 thirty cents; on every account and *scire facias* against offi-
8 cers thirty cents; all of which he shall have power to endorse
9 on the execution, and issue therefor, as for the debt and other
10 cost, and the officers shall collect and return the same with the
11 execution.

[SENATE Doc. 100.]

A BILL

CONCERNING

THE ESTATES OF DECEASED PERSONS,

WHEN

INSOLVENT.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

SENATE, Jan. 3d, 1851.

[Introduced by Mr. WASHINGTON. Passed first reading, and referred to the Committee on the Judiciary, and ordered to be printed.]

A BILL

Regulating the proceedings, when the Estate of a deceased person is insolvent.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That when the estate of any deceased person shall be insolvent or insufficient to to pay the debts thereof, it shall after discharging the necessary funeral expenses and those of the last sickness of the deceased, and the expenses of administration, be applied to the payment of the debts of said deceased in the following order: First, debts entitled to a preference under the laws of the United States; Secondly, public rates and taxes due the State; Thirdly, debts due to all other persons; And, if there be not enough to pay all the debts of any one class, all the creditors of that class shall be paid ratably in proportion to the respective debts; and no payment shall be made to creditors of any one class, until all those of the preceding class or classes, of whose claims the executor or administrator shall have had notice, shall be fully paid.

II. *Be it further enacted,* It shall be the duty of the executor or administrator, to file his petition in the Court of Pleas and Quarter Sessions of the county in which letters of administration, or testamentary letters shall be granted, setting forth as well as can be ascertained, the value of the estate of the deceased, and the amount of debts and demands against the same, and if it shall ap-

8 pear to the said Court, that the estate of the deceased
9 will probably be insufficient for the payment of his or her
10 debts, the said Court shall appoint two or more fit per-
11 sons to be commissioners to receive and examine all
12 claims of creditors against the estate of the deceased, and
13 to return to the said Court, a list of all the claims, that
14 shall have been laid before them, with the sum that they
15 shall have allowed on each claim; and the commissioners
16 before entering on the duties of their office, shall be sworn
17 to the faithful discharge thereof.

III. *Be it further enacted*, That the commissioners of
2 insolvency shall appoint convenient times and places for
3 their meetings, to receive and examine the claims of cred-
4 itors, and shall give notice thereof, by causing notifica-
5 tion to be posted up at the Court House door, and in two
6 or three public places in the county in which the deceas-
7 ed last dwelt, or in such manner as the County Court, hav-
8 ing regard to the circumstances of the case, shall order.

IV. *Be it further enacted*, That the period of six
2 months after the appointment of the commissioners shall
3 be allowed for the creditors to present and prove their
4 claims; and the County Court may allow such further
5 time for this purpose not exceeding twelve months from
6 the date of the commission, as said Court shall think ne-
7 cessary according to the circumstances of the case; and
8 at the expiration of the time, for the proof of debts,
9 the commissioners shall make their report to the said
10 Court.

V. *Be it further enacted*, That if at the return of the
2 commissions, any person shall be liable as surety for the
3 deceased, or shall have any other contingent claim against
4 said estate, which could not be proved as a debt under
5 the commission, upon the representation and proof thereof
6 before the County Court, the said Court shall in ordering a
7 dividend, leave in the hands of the executor or adminis-
8 trator, a sum sufficient to pay to such contingent credi-

9 tor a proportion equal to what shall then be paid to the
10 other creditors.

VI. *Be it further enacted*, That if at any time within
2 two years after the date of the administration bond, or
3 the granting of letters testamentary, such contingent debt
4 shall become absolute, it may be allowed by the County
5 Court, if not disputed by the Executor or administrator;
6 and if disputed, it may be proved before the commission-
7 ers already appointed, or others to be appointed by the
8 said Court, in like manner as if presented, before the first
9 return of the commissioners.

VII. *Be it further enacted*, That upon the allowance
2 of such claim, the creditor shall be entitled to a dividend
3 thereon, equal to what shall have been paid to the other
4 creditors, so far as the same can be paid without disturb-
5 ing the former dividend; and if his claim shall not be
6 finally established, or if the dividend due to him shall not
7 exhaust the assets, in the hands of the executor or admin-
8 istrator, the residue of the assets, shall be divided among
9 all the creditors, who shall have proved their debts.

VIII. *Be it further enacted*, That any person whose
2 claim shall be disallowed in whole or in part by the com-
3 missioners, and any executor or administrator, who shall
4 be dissatisfied with the allowance of any claim, may ap-
5 peal from the decision of the commissioners, to the County
6 Court and the claim shall thereupon be determined at
7 common law, and it shall be tried and determined in like
8 manner, as if an action had been brought therefor by the
9 supposed creditor against the executor or administrator,
10 subject to such further appeal as is now allowed by law.

IX. *Be it further enacted*, That such appeal shall be
2 claimed and notice thereof given to the parties interested
3 at least five days before the return thereof; and in case
4 of an appeal by an executor or administrator he shall also
5 give notice thereof to the creditor at least five days be-

6 fore the return into Court of the said appeal, otherwise
7 the same shall not stand for trial until the next succeed-
8 ing term of the Court; and in every case said notice of
9 five days before the trial thereof shall be given, and the
10 appeal shall be entered at the Court appealed to, which
11 shall be held next after the decision of the commissioners,
12 in said case.

X. *Be it further enacted*, That at the term of the
2 Court of which the creditor shall be notified as aforesaid,
3 the supposed creditor shall file a statement in writing of
5 his claim, setting forth briefly and distinctly all the ma-
6 terial facts, which would be necessary in a declaration for
7 the same cause of action; and the like proceedings shall
8 thereupon be had, in the pleadings, trial, and determina-
9 tion of the cause, as in an action at law, prosecuted in the
10 usual manner; excepting that no execution shall be award-
11 ed against the executor or administrator for the debt, if
12 any, found due to the claimant; and the list of debts, al-
13 lowed by the commissioners shall be altered if necessary,
14 to conform thereto.

XI. *Be it further enacted*, That after the claiming of
2 such appeal from the decision of the commissioners, the
3 parties may, if they think fit, waive a trial at law, and
4 submit the claim to the determination of arbitrators, to
5 be agreed on between them, and to be appointed accord-
6 ingly by a rule of the Court; in which case, the appeal
7 shall not be entered at the Court appealed to; and the
8 award of such arbitrators, if accepted by the Court, shall
9 be conclusive as to the claim.

XII. *Be it further enacted*, That the party prevail-
2 ing upon any such appeal shall be entitled to costs, to be
3 taxed and recovered as in common actions, against the
4 adverse party; which costs, if recovered against the exec-
5 utor or administrator, may be allowed to him, in his
6 administration account, out of the assets in his hands.

XIII. *Be it further enacted*, That any person whose
2 claim shall be disallowed by the commissioners, and who
3 shall by accident, mistake or otherwise, and not by his
4 own neglect, omit to claim, or prosecute his appeal, as
5 before provided, may upon his petition therefor to the
6 County Court, be allowed to claim and prosecute an ap-
7 peal in manner aforesaid, upon such terms as the Court
8 shall impose, if it shall appear that justice requires a fur-
9 ther examination of his claim; provided always, that no
10 such petition shall be sustained unless it be presented
11 within six months after the return of the commissioners
12 and within eighteen months after the granting of letters
13 testamentary and administration by the said Court.

XIV. *Be it further enacted*, That the allowance of
2 such appeal and the judgment that may follow thereon
3 shall not disturb any distribution that may have been or-
4 dered, before notice of the petition, or notice of the inten-
5 tion to present the same shall have been given in writing,
6 at the Court, or to the executor or administrator; but
7 the debts, if any, proved and allowed in the case last men-
8 tioned, shall be paid only out of such assets, as may re-
9 main in, or come to the hands of the executor or admin-
10 istrator, after payment of the sums due on such prior de-
11 cree of distribution.

XV. *Be it further enacted*, That the commissioners
2 may, when they think it proper, require an oath to be ad-
3 ministered to each claimant, to make true answers to all
4 such questions, as shall be asked of him relating to his
5 claim; and they may thereupon examine him upon all
6 matters relating thereto; and if he shall refuse to take
7 such oath, or to answer fully all questions that shall be
8 lawfully put to him, the commissioners may disallow his
9 claim; and on any appeal from the award of the commis-
10 sioners, the Court in which the appeal is pending, shall
11 have the like power to examine the claimant on oath, and

12 to disallow his claim, if he shall refuse to take the oath,
13 or to answer fully upon his examination thereon.

XVI. *Be it further enacted*, That any one of the com-
2 missioners may administer the said oath to the claimant,
3 and may also administer the oath to all witnesses, produ-
4 ced and examined before the commissioners; and any
5 person guilty of perjury, upon such examination, either as
6 a claimant or a witness, shall be liable to the punishment
7 provided for perjury in other cases.

XVII. *Be it further enacted*, That upon the return
2 made by the commissioners the Court shall make such a
3 decree for the distribution of the effects among the credi-
4 tors, as the case shall require, according to the provisions
5 of this act; and if before making such decree, the said
6 Court shall have notice of any appeal from the commis-
7 sioners, then claimed or pending, the said decree may be
8 suspended until the determination of such appeal, or the
9 said Court may order a distribution among the creditors,
10 whose debts are allowed, leaving in the hands of the exec-
11 utor or administrator a sum sufficient to pay the claimant
12 whose demand is disputed, a proportion equal to what
13 shall be paid to the other creditors.

XVIII. *Be it further enacted*, That if the whole assets
2 should not have been distributed, upon the first order of
3 distribution, or if further assets should afterwards come
4 to the hands of the executor, or administrator, the Court
5 shall make such further decree or decrees for the distribu-
6 tion thereof, as the case may require.

XIX. *Be it further enacted*, That no action shall be
2 brought against an executor or administrator, after the
3 estate is represented insolvent, upon the petition of the
4 said executor or administrator as aforesaid, unless it be
5 for a demand that is entitled to a preference and would
6 not be affected by the insolvency of the estate, or unless

7 the assets should prove more than sufficient to pay all the
8 debts allowed by the commissioners; and if the estate is
9 represented insolvent as aforesaid, whilst an action is pend-
10 ing against the executor or administrator, for any demand
11 that is not entitled to such preference, the action may be
12 discontinued without the payment of costs; or if the de-
13 mand is disputed, the action may be tried and determined
14 and judgment may be rendered thereon, in the same man-
15 ner and with the same effect as is provided in the case of
16 an appeal from the award of the commissioners; or the
17 action may be continued at the discretion of the Court,
18 without costs to either party, until it shall appear wheth-
19 er the estate is insolvent, and if it should not prove to be
20 insolvent, the plaintiff may prosecute the action, as if no
21 such representation had been made.

XX. *Be it further enacted*, That every creditor of an
2 estate that proves to be insolvent, who shall not have pre-
3 sented his claim for allowance in the manner prescribed
4 in this act, shall be forever barred from recovering the
5 same, unless further assets of the deceased shall come to
6 the hands of the executor or administrator, after the de-
7 cree of distribution; in which case his claim may be pro-
8 ved, allowed and paid in the manner and with the limita-
9 tions provided in this act for the case of contingent debts.

XXI. *Be it further enacted*, That if, after the report of
2 the commissioners of insolvency, the assets shall prove suf-
3 ficient to pay all the debts, allowed under the commission,
4 the executor or administrator shall pay the same in full;
5 and if any other debt shall afterwards be recovered
6 against him, he shall be liable therefor only to the extent
7 of the assets then remaining.

XXII. *Be it further enacted*, That if there are two or
2 more such creditors, the assets if insufficient to pay their

3 demands in full, shall be divided among them, in propor-
4 tion to the amount of the respective debts.

XXIII. *Be it further enacted*, That the executor or
2 administrator, in such a case shall be permitted to prove
3 under the general issue, the amount of assets in his hands,
4 and thereupon judgment shall be rendered in the usual
5 form, but execution shall not issue for more than the
6 amount of such assets; and if there is more than one
7 judgment the Court shall apportion the amount between
8 them.

XXIV. *Be it further enacted*, That if it shall not be
2 ascertained at the end of eighteen months after the
3 granting of letters testamentary or of administration,
4 whether any estate, that has been represented insolvent,
5 is or is not so in fact, any creditor whose claim shall not
6 have been presented before the commissioners, may com-
7 mence an action therefor against the executor or admin-
8 istrator; and such action may be continued, without costs
9 for the defendant, until it shall appear whether the estate
10 is insolvent; and if it should prove not to be so, the plain-
11 tiff may prosecute the action, as if no such representa-
12 tion had been made.

XXV. *Be it further enacted*, That if any executor or
2 administrator shall neglect to render and settle his ac-
3 counts in the County Court, within six months after the
4 return of the commissioners, or after the final liquidation
5 of the demands of the creditors, or within two years after
6 the granting of letters testamentary or of administration,
7 such neglect shall be deemed unfaithful administration
8 and a breach of the condition of his bond; and the execu-
9 tor or administrator may be removed and he shall also
10 be liable to a suit for all damages occasioned by his de-
12 fault.

XXVI. *Be it further enacted,* That when the estate
2 of any deceased person shall be represented insolvent as
3 aforesaid, the widow of such deceased person, shall be
4 allowed her year's provision; as is provided now by law.

XXVII. *Be it further enacted,* That all laws and
2 clauses of laws coming within the meaning and purview
3 of this act, be and the same are hereby repealed.

REPORT

OF THE

COMMISSIONERS OF THE INSANE HOSPITAL.

OF

NORTH CAROLINA.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

[Private Doc. 107]

REPORT

OF THE

COMMISSIONERS OF THE INSANE HOSPITAL

Dec. 21st 1850.

[Introduced by Mr. CAMERON. Referred to a Select Committee, and ordered to be printed.]

NORTH CAROLINA.

RALEIGH:

Thomas J. Lenoir, Printer to the State.

1851.

REPORT.

To the Honorable,

The General Assembly of the State of North Carolina.

The Commissioners of the Hospital, for the Insane in North Carolina, respectfully report that pursuant to provisions of the act for the establishment of said Hospital, before entering on the discharge of their duties, they executed a bond in the sum of one hundred thousand dollars, with sureties approved by the Executive, conditioned for the proper application of funds placed in their hands, and for the faithful discharge of their duties.

They devoted considerable time and attention to the selection of a site for said building, and after carefully examining the whole country in the vicinity of Raleigh, they selected a situation to the North west of the City, and about one mile distant, which in their opinion was best adapted to that purpose, and they accordingly purchased the same containing about one hundred and eighty two acres. This situation has a commanding view of the City, and is believed to be perfectly healthy. The grounds are beautifully undulating and

susceptible of improvement. It is contiguous to a beautiful and never failing stream, by means of which the institution can be furnished with an abundant supply of water, and it is conveniently situated for procuring ample supplies of fuel.

The next and most important subject, which occupied their attention, was the selection and adoption of a suitable plan for a building calculated to accommodate the number of patients designated in the act. Having no experience in matters of this kind and deeming it all important that a proper plan should be adopted, they appointed a committee of their body consisting of the chairman, Charles L. Hinton, Esq. and Doctor Josiah O. Watson, to examine the most approved institution of this kind, and to procure a suitable architect.

This Committee in the discharge of their duties, selected Mr. Alexander J. Davis, of New York, an architect of considerable reputation, who was instructed to confer with Dr. Francis R. Stribbling, the able and accomplished superintendent of the Western Asylum of Virginia, and to furnish such a plan as might be recommended by him, and in furtherance of their views they invited Dr. Stribbling to visit Raleigh for the purpose of examining the site and the plans proposed by Mr. Davis. That gentleman very kindly consented to do so, and spent several days in the examination, and suggested several very important alterations, and modifications of the plan, and Mr. Davis has the same now in hand. The Commissioners regret, that owing to this fact they have it not in their power at present to lay these plans before your Honorable Body, but they hope to review them in their revised and amended form in a short time, when they will be submitted. From the best information, they have been enabled to acquire, the Commissioners are satisfied that a building calculated to accommodate the number of patients required by the act establishing the Hospital, cannot be *constructed and furnished* for the sum which is understood to have been contemplated by the Legislature, say eighty six thousand dollars, but they are of opinion that the building alone, together with the necessary out buildings, will exceed

that sum, and will probably cost about ninety thousand dollars. With the view of curtailing the size of the building, if it should be thought advisable to do so, the Commissioners have as yet confined their operations to the Central building, and a portion of each wing, which they believe can be constructed within the sum provided, and which will be calculated to accommodate one hundred and twenty patients. Whether it is advisable to construct, at first, a building of this size, to be added to as occasion may require, or whether it is best to carry out the original design, is a matter submitted to your consideration.

The importance of this undertaking, and the slight experience they have thus far had in its prosecution, have satisfied the Commissioners that it is impossible to have the works faithfully and properly executed without the aid of a competent and skillful superintendent, who should be acquainted with the details of works of this kind, and should devote his whole time and attention to it; and they would respectfully recommend, in making such appointment, that a physician of skill and reputation should be selected, who should be competent to take charge of the institution, when completed; and the Commissioners avail themselves of this occasion, to say that without such superintendant it is impossible for them to carry on the work, as they have neither the time nor experience required to do so. They would therefore respectfully suggest the appointment of a Select Committee to whom this whole matter should be referred, before whom the plans, estimates and contracts can be submitted, and who can make such suggestions on these and other subjects, as they may think proper; and they would also recommend that the act of the last session establishing the Asylum, should be referred to the same committee, for such amendments as may be necessary.

The report of the commissioners made to the Treasurer and Comptroller, as required by the act, and to which they beg leave to refer, will exhibit the amount expended, and the contracts entered into by them.

The Commissioners cannot close their report without expressing their obligations, and tendering their thanks to the gentlemen connected with the several institutions visited by their committee, for their kindness and polite attention in affording them all the information in their power.

All of which is respectfully submitted.

Raleigh, 20th Dec., 1850.

J. M. MOREHEAD, C. L. HINTON, GEO. W. MORDECAI, THOS. N. CAMERON,	}	Com.
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REPORT

From the Treasurer of N. C.

[EXECUTIVE DOC. 15]

TREASURY OFFICE, }
January, 3rd 1851.

SIR,—In obedience to a resolution of the Senate, requesting the Public Treasurer “to furnish the Senate with a statement, showing the total sum paid out of the Treasury in defraying the expenses of the Convention, that amended the Constitution of this State in 1835,” I have the honor to state that said expense was eleven thousand six hundred and twenty nine dollars and ninety one cents.

With great respect, your ob’t, ser’vt.

D. W. COURTS, *Pub. Treas.*

Hon. W. N. EDWARDS,
Speaker of the Senate.

A BILL

TO

INCORPORATE A BANK

IN THE

TOWN OF WADESBOROUGH,

IN THE

COUNTY OF ANSON.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

SENATE, Jan. 3d, 185t.

[Introduced by Mr. RICHARDSON. Passed first reading and referred to the Committee on Corporations, and ordered to be printed.]

A BILL.

To incorporate the "Bank of Wadesborough."

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That a Bank shall be established in the town of Wadesboro', the capital stock of which shall not exceed Two Hundred Thousand Dollars, divided into shares of fifty dollars each; and for the purpose of receiving subscriptions for said stock, Books shall be opened on the 17th day of February 1851, or within twenty days after the ratification hereof, and remain open for the space of sixty days, at Wadesboro', under the superintendence of W. R. Leak, Geo. W. Little, H. B. Hammond, Joseph Medley, A. Myers, Purdie Richardson, James A. Leak, Stephen W. Cole, William G. Smith, Benjamin I. Dunlap, Nelson P. Liles, James C. Bennett and Joseph White, or a majority of them; at Rockingham, under the superintendence of James P. Leak, Mial Wall, John W. Covington, Walter F. Leak, William B. Cole, Samuel Terry and Walter L. Steele, or a majority of them; at Centre, under the superintendence of Wm. Wall, Sr., Dr. Jno. H. Treadwell, Wm. S. Pemberton, Stephen Crump, Wm. D. Watkins, James S. Turner and James L. Gaines, or a majority of them; and at the same time, at such other places, and under the superintendence of such other persons, as may be designated by the commissioners appointed to receive subscriptions at Wadesboro'.

II. *Be it further enacted*, That one fifth of such shares 2 shall be paid in gold or silver, or their equivalent, to the 3 commissioners above named, or those appointed by them, 4 at the time of subscribing; that another fifth shall be paid 5 within sixty days thereafter; that another fifth shall be 6 paid within one hundred and twenty days thereafter; 7 that another fifth shall be paid within three months after 8 the time appointed for paying the third instalment, and 9 the remaining fifth shall be paid within three months af- 10 ter the time of paying the fourth instalment; and if any 11 subscriber shall fail to pay any instalment at the time stip- 12 ulated, he shall pay interest thereon, at the rate of six 13 per cent. per annum, and his stock shall be forfeited, and 14 may be sold by the Bank, and the proceeds applied to the 15 payment of the aforesaid deficient instalment and he shall 16 be held responsible for the same at the option of the 17 Bank; and the remainder, if any, of such sale, to be paid 18 over to the subscriber: *Provided*, that after the Bank 19 shall have been organized as hereinafter provided, the re- 20 maining unpaid instalments shall be paid to the Directors 21 or their agents, and it shall be lawful for any subscriber 22 to pay the whole of his subscription, or any greater part 23 than is hereby required, before the time limited for the 24 same; and every subscriber so paying in advance, shall 25 have a discount at the rate of six per cent. per annum, on 26 such advance, computing the same from the time when 27 payment is made to the time when it is required to be 28 made.

III. *Be it further enacted*, That when six hundred 2 shares are subscribed, and the sum of fifteen thousand 3 dollars is actually paid to the commissioners aforesaid, 4 the subscribers to the said Bank, their successors and as- 5 signees shall be and are hereby created a body politic in 6 law and in fact, by the name and style of the "Bank of 7 Wadesboro'," and shall so continue until the first day of

8 January, Eighteen Hundred and Eighty; and by the
9 name and style aforesaid, they shall be able and capable
10 in law, to have, purchase, receive, possess, enjoy and re-
11 tain to themselves and successors, land, tenements, rents,
12 hereditaments, goods, chattles and effects, and the same
13 to grant, devise, alien and dispose of; to sue and be sued;
14 plead and be impleaded; answer and be answered; de-
15 fend and be defended unto, in Courts of record, or in any
16 place whatsoever; and also to make, have and use, a com-
17 mon seal, and the same to break, alter or renew, at their
18 pleasure; and also to ordain, establish and put into exe-
19 cution such by-laws, ordinances and regulations as shall
20 seem necessary and convenient for the government of said
21 corporation; and for the making whereof, general meet-
22 ings of the Stockholders may be called in the manner
23 hereinafter specified; and generally to do and execute
24 all acts, matters and things, which a corporation and body
25 politic in law, may or can lawfully execute, and be subject
26 to the rules, regulations, restrictions and provisions here-
27 inafter prescribed and declared.

IV. *Be it further enacted*, That if it shall happen, when
2 the Books shall be opened as aforesaid, that a greater
3 sum than Two Hundred Thousand Dollars shall be sub-
4 scribed by individuals, or by bodies corporate, it shall be
5 lawful for the commissioners to reduce such subscriptions,
6 according to a scale to be by them established for that pur-
7 pose, to the aforesaid amount of Two Hundred Thousand
8 Dollars: *Provided*, that no subscription of two shares or
9 under shall be scaled until all larger subscriptions shall
10 first be reduced to an equality with them; and if six hun-
11 dred shares should not be subscribed within the sixty days
12 aforesaid, the commissioners may keep open the Books
13 for subscription twelve months longer, unless the same be
14 sooner subscribed; and the Directors, elected as herein-
15 after prescribed, shall be allowed to keep open the Sub-

16 scription Books until the whole of the stock shall be taken,
17 and open and close the same previous thereto, at their
18 discretion. The commissioners appointed to receive sub-
19 scriptions at Rockingham and Centre in the County of
20 Stanly, and those who shall be appointed as herein pre-
21 scribed at other places, shall pay over to the commission-
22 ers herein appointed to receive subscriptions at Wades-
23 boro', all moneys paid to them on stock subscriptions, im-
24 mediately after receiving the same.

V. *Be it further enacted*, That as soon as six hundred
2 shares shall be taken in the stock of said Bank, and fif-
3 teen thousand dollars paid to the commissioners who keep
4 the Books, notice shall be given in the North Carolina
5 Argus, published in Wadesboro', (or in some other public
6 manner) and a meeting of the subscribers to be held ten
7 days at least after the date of the notice, shall be called.
8 If at this meeting, those or their agents, who have a ma-
9 jority of votes, according to the rates hereinafter descri-
10 bed, be present, (if not, another meeting shall be cal-
11 led) they shall proceed to the election of seven Directors,
12 who shall take charge of the Books and money in the
13 hands of the commissioners, and immediately pursue the
14 usual means to put the Bank in operation. The said Di-
15 rectors shall remain in office until the time which shall be
16 prescribed in the by-laws of the said corporation for the
17 annual meeting of the stockholders, or until their succes-
18 sors shall be appointed; and at the time which shall be
19 prescribed as aforesaid in each year, or at any time there-
20 after, meetings of the stockholders shall be held in the
21 town of Wadesboro' for the purpose of electing Directors,
22 inquiring into the affairs of the institution, and making
such regulations as may be deemed fit and necessary.

VI. *Be it further enacted*, That the following rules,
2 regulations and provisions shall form and be the funda-
3 mental articles of the constitution of the corporation. A

4 meeting of the stockholders cannot be held, unless those
5 who have a majority of the whole number of votes be pres-
6 ent, and every act shall require the sanction of a majority
7 of the votes which may be present; every stockholder
8 holding one share, and not more than two, shall be enti-
9 tled to one vote; for every two shares above two, and not
10 exceeding ten, one vote; for every three shares above ten,
11 and not exceeding forty, one vote; for every six shares
12 above forty, and not exceeding, one hundred, one vote;
13 for every ten shares above one hundred and not exceeding
14 two hundred, one vote; for every twenty shares above
15 two hundred, one vote. After the first meeting, no share
16 or shares shall confer a right of voting which shall not
17 have been holden three calender months previous to the
18 day of voting. Stockholders may vote at general meet-
19 ings and elections by proxy, the proxy himself being a
20 stockholder. None but a stockholder, who is a citizen of
21 the State, shall be eligible as a Director; and the stock-
22 holders shall appoint annually seven Directors to manage
23 the Bank, and when appointed, they shall choose one of
24 their number to be President of the Bank, and shall man-
25 age the institution as shall seem best, unless otherwise
26 directed by the stockholders. Not less than three Direc-
27 tors, of whom the President shall always be one, shall con-
28 stitute a board for the transaction of business, except in
29 case of absence or sickness of the President, when he may,
30 by writing, nominate any other director to supply his
31 place. If a vacancy in the directory shall occur, by death,
32 resignation or otherwise, the remaining Directors shall
33 fill such vacancy until the succeeding annual meeting of
34 the stockholders. A number of stockholders, not less
35 than ten, who together shall be owners of three hundred
36 shares or upwards, shall have power at any time to call
37 a general meeting of the stockholders, for purposes rela-
38 tive to the institution, giving at least twenty days notice

39 in a public Gazette, and specifying the object or objects
 40 of such meeting; the Directors shall annually elect such
 41 officers as may be deemed necessary to perform the busi-
 42 ness of the Bank, and may remove them or either of them
 43 at pleasure; those officers shall be required to give bonds
 44 with two or more securities in sums not less than ten thou-
 45 sand dollars, with a condition for good behaviour and
 46 faithful performance of duty; they shall be allowed by
 47 the Directors such compensation for their services as shall
 48 be reasonable; but compensation to the President and
 49 Directors shall be granted at the pleasure of the stockhol-
 50 ders. The stock of said corporation shall be assignable
 51 and transferable according to the rules which shall be in-
 52 stituted in that behalf by the laws and ordinances of the
 53 ~~same~~.

VII. *Be it further enacted*, That the said corporation
 2 shall neither directly nor indirectly trade in any thing ex-
 3 cept bills of exchange; promissory notes and bonds, ex-
 4 pressing on the face of them to be negotiable and payable
 5 at said Bank; gold or silver bullion; or in the sale of
 6 goods really and truly pledged for money lent, and not
 7 redeemed in due time, or in goods which shall be the pro-
 8 duce of its lands, or in mint certificates, and the public
 9 debts of the United States, and of this State: *Provided*,
 10 the investment in such stock shall not exceed one half of
 11 the capital stock of this Bank. The said corporation
 12 shall purchase and hold only such lands, tenements, rents
 13 and hereditaments as shall be required for the convenient
 14 transaction of its business, or shall have been "*bona fide*"
 15 mortgaged to it by way of security, or conveyed to it in
 16 satisfaction of debts previously contracted in the course of
 17 its dealings, or purchased at sale upon judgments which
 18 shall have been obtained for such debts.

VIII. *Be it further enacted*, That the said corporation shall not take more than six per cent. per annum for or upon its loans and discounts, which interest may be received in advance at the time of discount; and the said bank shall, at no time, have in circulation more than twice the amount of its capital actually paid in.

IX. *Be it further enacted*, That the bills obligatory and of credit, under the seal of the said corporation, which shall be made to any person or persons, shall be assignable by endorsement thereon, under the hand or hands of such person or persons, and of his, her, or their assignee or assignees, and so as absolutely to transfer and vest the property therein, in each and every assignee or assignees successively, and to enable such assignee or assignees to bring and maintain an action thereupon in his, her, or their name or names, and bills or notes which may be issued by order of the said corporation, signed by the President and countersigned by the Cashier, promising the payment of money to any person or persons, his, her, or their order, or to bearer, though not under the seal of said corporation, shall be binding and obligatory on the same, in the like manner, and with the like force and effect, as upon any private person or persons; that is to say, those which shall be payable to any person or persons, his, her or their order, shall be assignable by endorsement in like manner, and with like effect, as foreign bills of exchange now are, and those which are payable to bearer, shall be negotiable and assignable by delivery only.

X. *Be it further enacted*, That, if any person or persons holding any note or notes of said bank shall present the same for payment, and payment shall be refused, the said note or notes shall draw interest at the rate of twelve per cent. per annum from the time of said demand, and the said Bank shall pay the same, any law to the contrary

7 notwithstanding; and the holder of said note or notes of
8 said Bank, not paid on demand, may bring an action of
9 assumpsit against one or all of the Directors who may
10 have consented to issue more than twice the capital stock
11 paid in, in case the bank be unable to pay the amount :
12 *Provided, always,* that if any note or notes of the said
13 Bank shall be presented for payment by, or for, any Bank,
14 or branch or agency of any Bank, either directly or in-
15 directly, it shall be lawful to pay the same, or any part
16 thereof, with the note or notes of the Bank, by or for
17 which the demand shall have been made, whether made
18 at the instance of the principal Bank, its branch or agen-
19 cy, without regard to the place where the same may have
20 been issued or may be payable; and any person or
21 persons who may present the note or notes of the said
22 Bank for payment, shall, if required, state on oath, before
23 a Justice of the Peace, whether the demand was made for
24 any Bank or branch or agency of any Bank, either di-
25 rectly or indirectly, or in case of refusing, shall not be
26 entitled to recover any interest whatever on any note of
27 said Bank, for which payment may be refused.

XI. *Be it further enacted,* That the Directors of said
2 Bank may declare semi-annual dividends of the profits
3 thereof, provided that no dividend shall be declared until
4 the whole amount of stock subscribed shall be paid in gold
5 or silver, or their equivalent; and if, at any time, more
6 than the real profits are divided, the Directors assenting
7 thereto, shall be responsible in their private capacities to
8 creditors who have claims against the said institution.

XII. *Be it further enacted,* That in case of any insol-
2 vency of the Bank hereby created, or ultimate inability
3 on the part of this corporation to pay, the individual
4 stockholders shall be liable to creditors in sums double the
5 amount of stock by them respectively held in said corpor-
6 ation.

XIII. *Be it further enacted*, That the officer at the
2 head of the treasury department of the State shall be
3 furnished once in six months with a statement of the
4 amount of the capital stock of said corporation, and the
5 debts due the same; of the monies deposited therein; of
6 the notes in circulation; and of the cash on hand and
7 shall have a right to inspect such general accounts, in the
8 Books of the Bank, as shall relate to said statement:
9 *Provided*, that this shall not be construed to a right of
10 inspecting the accounts of any private individual with the
11 Bank, except the Directors. And it shall be the duty of
12 the President of the Bank, in the first week of December
13 in each and every year, to transmit to the General As-
14 sembly a full statement of the condition of the Bank, ex-
15 hibiting the amount of capital, notes in circulation, debts
16 due to other Banks, and to what Banks, deposits and all
17 other particulars necessary to explain the debit side of the
18 account; also, the specie on hand; notes on other Banks,
19 and what Banks, bills of exchange, debts or bonds, and
20 notes discounted, specifying in one item the amount due
21 from stockholders, and in another, the amount due from
22 Directors, not, however, using any person's name in either
23 case; and the real estate.

XIV. *Be it further enacted*, That, if any person shall
2 falsely make, forge or counterfeit, or cause or procure to
3 be falsely made, forged or counterfeited, or willingly aid
4 or assist in falsely making, forging or counterfeiting any
5 bill or note in imitation of, or purporting to be a bill or
6 note issued by order of the President and Directors of
7 the bank of Wadesboro', or any order or check upon said
8 Bank or corporation, or the Cashier thereof; or shall
9 falsely alter, or cause or procure to be falsely altered, or
10 willingly aid or assist in falsely altering any bill or note
11 issued by order of the said corporation, or any order or
12 check on said Bank or the Cashier thereof; or shall pass

13 or receive with intent to pass, utter or publish as true,
14 any false, forged or counterfeited bill or note, purporting
15 to be a bill or note issued by order of said corporation ;
16 or any false, forged, or counterfeited check, or order,
17 upon the said Bank, or the Cashier thereof, knowing the
18 same to be falsely forged or counterfeited ; or shall pass,
19 or receive with intent to pass or publish as true, any
20 falsely altered check or order on said Bank, or the Cash-
21 ier thereof, or falsely altered bill or note issued by order
22 of said Bank, knowing the same to be falsely altered with
23 intent to defraud the said corporation, or any other body
24 politic or person or persons ; every such person shall be
25 deemed guilty of felony and being thereof convicted by
26 due course of law, shall be imprisoned not exceeding ten
27 years, and fined not exceeding five thousand dollars.

XV. *Be it further enacted*, That the President or
2 Cashier of said Bank shall annually pay into the Treasu-
3 ry of the State, twelve and a half cents on each share of
4 said capital stock which may have been subscribed for
5 and paid in ; and the first payment of said tax shall be
6 made twelve months after said Bank shall have com-
7 menced operations.

XVI. *Be it further enacted*, That if any President,
2 Cashier, Clerk or other officer of the aforesaid Bank,
3 shall knowingly, willingly, and with intent to deceive,
4 make, or cause to be made, or connive at making any
5 false return, statement, or exhibit of the condition of the
6 Bank, either to the Treasurer of the State, to the Legisla-
7 ture or to the Board of Directors of the Bank, or to the stock-
8 holders, or to any other person or persons, that may be
9 authorised by the Legislature or by the stockholders to
10 receive the same ; such President, Director, Cashier,
11 Clerk or other officer and all persons aiding or abetting
12 in such deception or false return, shall be liable to be in

dicted for a misdemeanor in the Superior Courts, and upon conviction, shall be fined at the discretion of the Court, and imprisoned not exceeding one year.

XVII. *Be it further enacted*, That, if a Director or any other officer, agent or servant of said corporation, shall embezzle any of the funds belonging to said Bank with the intent to defraud said corporation, or make false entries upon the Books of said Bank, with intent to defraud said corporation, or any other person whatsoever; said officer, agent or servant, shall be held and deemed guilty of felony, and upon conviction thereof by due course of law, shall be punished by fine at the discretion of the Court, and imprisoned not exceeding five years.

XVIII. *Be it further enacted*, That, whenever the Legislature may be of opinion that the charter of the corporation hereby granted shall have been violated, it may be lawful, by joint resolution, to direct the Attorney General with such assistant counsel as the Governor or Legislature may think proper to engage, to issue a writ of *Scire Facias*, returnable before the Judges of the Supreme Court, calling upon said corporation to show cause why the charter hereby granted shall not be forfeited, subject to the same proceedings as are now prescribed by law, in cases of other corporations.

XIX. *Be it further enacted*, That the Cashier shall keep a book to contain the proceedings of the Board of Directors, the names of those present, the day and date of each meeting, and shall record the yeas and nays, on any question, when asked for by any Director. This book shall be evidence in Courts of Justice; and in entering on the discharge of his duties, the Cashier shall take the following oath before some Justice of Peace, by whom it shall be returned to the office of the Clerk of the County Court. "I A. B. do solemnly swear to keep a just and true record,

11 without alterations or erasures, of the transactions of the
12 Board of Directors of the Bank of Wadesboro'; in a book
13 kept by me for that purpose.

XX. *Be it further enacted*, That this act shall be in
1 force from and after its ratification.

[HOUSE Doc. 104.]

REPORT

OF THE

COMMITTEE ON FINANCE

ON

THAT PORTION OF THE GOVERNOR'S MESSAGE

RELATING TO

“FINANCE & STATE DEBTS.”

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

[Reported by Mr. S. J. PERSON from the Committee on Finance, and ordered to be printed.]

REPORT

OF THE

COMMITTEE ON FINANCE,

TO WHOM WAS REFERRED

SO MUCH OF THE GOVERNOR'S MESSAGE

AS RELATES TO

"FINANCE & STATE DEBTS."

The Committee on Finance to whom was referred that portion of the Message of his Excellency, Gov. Manly, relating to "Finance and State Debts," have given the subject anxious and deliberate consideration, and report that, in their opinion, the actual liabilities of the State for the years 1851 and '52, are made much too large by his Excellency's estimate, which the following statement, with the remarks therein, will go to shew:

Statement of Liabilities of the State, for 1851 and 1852.

	Principal.	Int. for 1851.	Int. for 1852.
1st. On acc't of Raleigh and Gaston Railroad Bonds,	\$500,000 00	\$30,000 00	30,000 00
2d. Do. Do. interest and \$30,000 principal	106,000 00	36,360 00	34,560 00
3d. Am't due Literary Fund for money used	118,192 00	7,091 52	7,091 52
4th. Ditto Ditto in Bonds,	40,360 00	2,421 60	2,421 60
5th. Bond issued to pay Banks &c.	200,000 00	12,000 00	12,000 00
Fayetteville & Western Pland Road Bonds issued,	60,000 00	3,600 00	3,600 00
6th. Do. Ditto, yet to be issued,	60,000 00	1,800 00	3,600 00
7th. Cape Fear & Deep River Co. to be provided for 1st July '51,	20,000 00	600 00	1,200 00
8th. Ditto Ditto, 1st Jan'y 1852,	20,000 00	"	1,200 00
9th. Neuse & Tar River Principal to be provided for,	65,000 00	1,950 00	3,900 00
10th. Bank Cape Fear,	40,000 00	2,400 00	2,400 00
11th. N. C. Rail Road two millions to be provided for,			
January 1st, 1852,	500,000 00	"	30,000 00
July 1st, 1852,	500,000 00	"	15,000 00
Add ordinary expenses of State,		\$98,223 12	\$146,973 12
		75,000 00	75,000 00
Deduct receipts at Treasury, according to present Revenue Law,		\$173,223 12	\$221,973 12
		148,972 00	148,972 00
		\$24,251 12	\$73,001 12
Deficit to be provided for in 1851,		\$24,251 12	
Deficit to be provided for in 1852,			73,001 12
Int. on \$24,251 12, deficit for '51,			1,455 06
Whole am't for 1852,			74,456 18

In the foregoing statement, the State's guaranty of \$250,000, on account of the Wilmington and Raleigh Railroad Company, has been omitted, because the committee have no doubt that company will continue to pay its interest promptly. On account of the balance of the State's subscription to the Fayetteville and Western Plank Road, only a half year's interest has been charged for 1851. Judging from the progress of the work, and the manner in which that company has heretofore made calls upon the Treasury, to say nothing of the premium which the sale of these bonds is likely to command, it is probable that the sum stated will fully meet the liability upon that score.

There is an unpaid balance of \$40,000, to the Cape Fear and Deep River Improvement, not provided for, for which sum the committee recommend that the Treasurer shall issue State Bonds in such amounts and for such sums as may be required. Thinking the plan proposed will be adopted, the committee have only charged interest upon that sum. On account of a recent payment of \$20,000, and the progress of the work, together with the terms of payment, prescribed in the charter of that company, it is thought that the next instalment of \$20,000 will not be called for before the 1st of July, 1851, and the remaining \$20,000 of the State's subscription before the 1st of January, 1852, and therefore only \$600 of interest is charged on that account for the present year.

The committee also recommend that the \$65,000 appropriated for the Neuse and Tar river shall be provided for by State Bonds when required, and although they think that no demand will be made upon the Treasury during this year on that account, yet, for safety, they have made their estimates as if that sum will be required on the 1st of July next.

The State's subscription to the North Carolina Railroad has not yet been made, and the committee feel confident that

there is no necessity for charging any thing on that account, for the present year, and accordingly they have made no charge; for 1852, \$45,000 have been stated as necessary to be provided, upon the assumption that \$500,000 will be called for on the 1st of January, 1852, and \$500,000 on the 1st of July of the same year: but this statement has been made for safety, and not that the committee are satisfied that even that much will be needed.

Thus the demands upon the Treasury for interest, and a payment of \$30,000 of principal on account of the Raleigh and Gaston Railroad, and seventy-five thousand dollars for the ordinary expenses of the State, are estimated to be \$173,223 12. To meet which we have, taking the amount of revenue of last year as a basis, \$135,780, to which must be added \$13,192, which, according to the Treasurer's statement upon that subject, will be produced under the operation of the 7th section of the Revenue Act of 1848-'49—making together \$148,972; which, deducted from the liabilities as above, leaves \$24,251 12, unprovided for in 1851.

And by making the same deduction from \$221,973 12, there remains \$73,001 12, as a balance unprovided for in 1852, which must be increased by \$1,455 06, the interest on the deficit of \$24,251 12, for the present year, and shews the whole amount unprovided for in 1852, to be \$74,456 18.

No alteration in the revenue system of the State can take effect soon enough to supply the wants of the present year; and, therefore, the committee, in order to save the credit and character of the State, are compelled to recommend that the deficiency shall be supplied either by using, from time to time, such unappropriated money, belonging to the Literary Fund, as may be necessary, or by a loan to be effected by the Treasurer either from the Banks or from individuals, upon State bonds.

For the year 1852, according to the above estimates, \$74,456 18, are to be provided to meet the current expenses, besides the revenue which would be produced under the present laws, taking the foregoing estimates as correct. Your committee think, if the amount of deficiency for 1851 & 2, respectively, is made upon just data so far as the State's liability is concerned, that a better understanding of the laws now in force, together with their more certain and faithful administration, will no doubt increase the revenue considerably above what it was last year, or would have been, supposing the whole act of 1848-'9 had been in operation, and thereby, of necessity, diminish the wants of the Treasury in proportion. But, however unexpected the increase from this cause may be, yet it would be idle to suppose that it will be sufficient to answer the wants of the Treasury. Therefore, the committee have, with much care, and after mature deliberation, proposed such alterations in, and amendments to, our present system of taxation, as will, in their opinion, put the Treasury, in 1852, in such a condition as to meet promptly its liabilities, and preserve the faith and credit of the State. It is unnecessary to state here the alterations and amendments by which they hope to affect this very desirable object, as they are embraced in a bill which they herewith report, and commend to the favorable consideration of the members of this General Assembly. But whilst a majority of the committee have much confidence in the foregoing opinion, a proper distrust of the accuracy of their own views, a profound respect for the opinions of those who differ with them, and an earnest desire that the character of the State for honesty, promptitude and good faith, shall be secured beyond

the possibility of reproach, constrain them to recommend that, in addition to the sums heretofore mentioned, the Treasurer of the State shall be authorized to secure a loan either upon State Bonds or otherwise, of such sums as the necessity of the Treasury may, from time to time require, to meet its actual liabilities; but that the amount of such loan shall be limited.

All of which is respectfully submitted.

SAM'L J. PERSON, *Chairman.*

A BILL

REPORTED BY

THE COMMITTEE ON FINANCE

TO

REPEAL THE ACT OF LAST SESSION

TO

INCREASE THE REVENUE OF THE STATE, &c.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

HOUSE COMS. Jan. 6th, 1851.

[Read 1st time and passed, and on motion of Mr. SCOTT ordered to be printed, together with report; and on motion of Mr. PERSON, made the special order for Friday next.]

A BILL

To repeal an act passed at the session 1848 & 49, entitled
"An Act to increase the Revenue of the State", and for
other purposes.

I. *Be it enacted by the General Assembly of the*
2 *State of North Carolina, and it is hereby enacted by*
3 *the authority of the same,* That hereafter there shall
4 be levied annually the sum of three cents upon every dol-
5 lar of interest received, or actually owing from or by any
6 solvent debtor or debtors whether from individuals, com-
7 panies, corporations, or in any other way, upon all sums
8 of money at interest, whether in this State or out of it,
9 at any time during the year next preceeding the time
10 when the owner or owners thereof shall give in his, her
11 or their tax list.

II. Hereafter there shall be levied annually the sum
2 of three cents upon every dollar of dividend or profit ac-
3 tually due or received upon sums of money vested in
4 trading in slaves, or vested in sailing or steam vessels,
5 (excepting the profits of such vessels as are under the
6 burden of twenty tons,) or in any other species of
7 trade, or vested in stocks of any kind, or in shares of
8 any incorporated or trading company, whether in this
9 State or out of it at any time during the year, immedi-
10 ately preceeding the time when the owner or owners
11 thereof shall give in his, her, or their tax list; *Provided,*
12 *this act shall only authorize the taxing of such profits as*
13 *the Banks of this State shall make from trading in*
14 *stocks, and bonds as distinguished from "bills receive-*
15 *ble;" and provided further that every person shall have*
16 *six dollars of interest, dividend or profit and an amount*
17 *equal to the sum of interest, which he, she or they owe*
18 *or pay, or secure to be paid, on his, her or their own debt*
19 *or debts, which shall not be subject to the tax imposed by*

20 this act—and *provided further* that this act shall not ex-
21 tend to the interest or dividends accruing to any literary
22 institution.

III. So much of the capital stock in trade of any mer-
2 chant or Jeweller, wholesale, or commission merchant as
3 is now taxed by the 14th section of the 162 chapter of
4 the Revised Statutes shall be exempt from the provisions
5 of this act.

IV. Hereafter there shall be imposed and levied an-
2 nually the following taxes, to wit: On all Surgeon Den-
3 tists, all practising Physicians, all practising Lawyers, and
4 on all other persons, (except Ministers of the Gospel of
5 every denomination, Governor of the State and Judges
6 of the Supreme and Superior Courts,) whose practice,
7 salaries or fees, or all together, shall yield an annual in-
8 come of Five Hundred Dollars, the sum of Three Dollars
9 for the first Five Hundred, and Two Dollars for every
10 additional Five Hundred Dollars.

V. There shall be imposed and levied annually a tax
2 upon the following articles to wit: On each Fifty Dollars
3 worth of Gold and Silver Plate and ornamental Jewelry,
4 in use, by the owner or owners thereof, the sum of two
5 dollars; on all Sulkies, Gigs, Buggies, Barouches, Car-
6 riages, and all other pleasure vehicles whatsoever, in use
7 by the owner or owners thereof, of the value of Fifty Dol-
8 lars and under One Hundred Dollars, fifty cents—all of
9 the value of One Hundred Dollars and under Two Hun-
10 dred Dollars, one dollar; all of the value of Two Hundred
11 Dollars and under Three Hundred Dollars, two dollars;
12 all of the value of Three Hundred Dollars and under
13 Four Hundred Dollars, three dollars; and all of the val-
14 ue of five hundred dollars and upwards, four dollars; on
15 all Gold Watches, one dollar, and on all Silver Watches,
16 twenty five cents, (except such of each as are kept in
17 shops and stores for sale); on all Harps in use by the
18 owner or owners thereof, two dollars; on all Piano Fortes

19 in use by the owner or owners thereof, one dollar; on all Pistols, (except such as shall be used exclusively for mustering, and also those kept in shops and stores for sale,) one dollar each; on all Bowie Knives, one dollar each, and Dirks and Sword Canes, fifty cents each, (except such as shall be kept in shops and stores for sale); on all retailers of Wines, Cordials, or spirituous liquors, *ten dollars*; on all Billiard Tables, *one hundred dollars*; on all Bowling Allies, whether called "Nine Pin," or "Ten Pin" Allies, or by any other name, *twenty five dollars*; on every pack of playing cards, *ten cents*, and every merchant, shop keeper and public dealer, in goods, wares, merchandise, or other thing, shall be liable for the same, and shall state on oath, how many packs, he or she has sold within the year, preceeding the time, he or she shall give in his or her tax list; on all dogs, upon each lot or farm exceeding two in number, ten cents each, to be listed and paid by the owner or owners; on all mortgages and deeds of trust, which shall be registered, the sum of one dollar; and the Register in each and every county shall be liable for the same, and is hereby required to make a return, under oath, taken before the Clerk of the County Court, and certified under his official seal, to the Comptroller of the State, on or before

43 of the number of mortgages and deeds of trust by him registered in the preceeding year, and pay over the amount of taxes thereon, under a penalty of one hundred dollars, to be recovered by the Public Treasurer, on motion, in any Superior Court of Law in this State; and the said Register shall not be required to register any mortgage or deed of trust, until the person and persons presenting the same, shall have paid the tax hereby imposed, in addition to the fees now by law established; on all marriage licenses, the sum of one dollar each; and the Clerks of the several County Courts are hereby authorized and required to collect the tax hereby imposed in addition to their own fees, and it shall be the

56 duty of the said clerks to make a return, under oath, to
57 be taken before the clerk of the Superior Court of their
58 respective counties and by him certified under his official
59 seal to the Comptroller of the State on or before
60 in each and every year, of the number
61 of marriage licenses issued by him, or his lawful deputy,
62 or by any other person for him during the preceeding
63 year, and pay over the amount of taxes due thereon, un-
64 der a penalty of one hundred dollars, to be recovered
65 against him and the sureties to his official bond in any
66 Superior Court of law in this State, on motion of the Pub-
67 lic Treasurer.

VI. The owner or owners of every toll bridge or ferry
2 in this State shall, hereafter, pay annually, a tax equal to
3 five times the sum of the largest toll by him or them de-
4 manded and received.

VII. The agent or agents of all insurance companies,
2 not incorporated in this State, shall hereafter pay an an-
3 nual tax of fifty dollars, in every county where such a-
4 gency shall be established, to be collected and accounted
5 for by the Sheriffs of the several counties as other taxes,
6 and in case the said agent or agents shall fail to pay the
7 tax hereby imposed, he or they shall be individually lia-
8 ble for a tax of one hundred dollars, to be collected by
9 the Sheriff of the county where such failure takes place,
10 by distress and sale of the property of the said agent or
11 agents, to be applied three fourths to the use of the State,
12 and one fourth to the use of the Sheriff collecting the
13 same.

VIII. Every person who shall bring any horses or
2 mules into this State, from any other State by the drove,
3 and shall dispose of the same or any part thereof, in any
4 county in this State, shall pay to the Sheriff of every
5 such county, the sum of five dollars, which tax shall be
6 accounted for by the Sheriff in like manner as other pub-
7 lic taxes, and upon paying such tax and a receipt there-

8 for, and a license to sell such droves or part thereof, such
9 person shall be authorized to sell and retail such horses
10 or mules that may belong to their present droves, and no
11 other for the term of one year; and each and every person
12 who shall sell such drove of horses or mules, or any part
13 thereof, without previously having paid the tax thereon,
14 and without having obtained a license so to do, or who
15 shall refuse or neglect, upon the request of the Sheriff or
16 his lawful deputy, or any Justice of the Peace, to shew
17 such license, shall pay a tax of one hundred dollars, to
18 be collected by the Sheriff of the county, where such fail-
19 ure takes place, by distress and sale of the property of
20 such delinquent, to be applied, one half to the use of the
21 State, and one half to the use of the Sheriff.

IX. Each and every company of circus riders or eques-
2 trian performers, and each and every person or company,
3 who shall exhibit any collection of animals, commonly
4 known as a menagerie, for reward, shall, previously to
5 exhibiting or performing in any county in this State, pay
6 to the Sheriff thereof, *fifty dollars*, as a tax to the
7 State, to be accounted for by the Sheriff as other State
8 taxes; and paying such tax, the Sheriff who receives the
9 same, shall give a license to exhibit or perform in his
10 county, which license shall contain a list of such animals
11 or personal performances or other articles to be exhibited,
12 and in that case, such company or person shall be author-
13 ized and permitted to perform and exhibit as aforesaid,
14 in such county and no other, for the space of one year
15 thereafter; and each and every company of circus riders,
16 or equestrian performers, or exhibiter of any collection
17 of animals, commonly known as a menagerie, who shall
18 perform or exhibit in any county in this State, without
19 previously having paid the tax herein directed, shall be
20 liable to a forfeiture of one hundred dollars to be collect-
21 ed by the Sheriff, by distress and sale of the property of
22 such delinquent, and to be applied, one half to the use of
23 the State and the other half to the use of the Sheriff.

X. *Be it further enacted*, That the taxes, by this act
2 imposed, shall be returned on oath to the Justices of the
3 several counties in this State, appointed to take the list
4 of taxables and taxable property; and shall be collected
5 by the sheriffs of the several counties at the same time,
6 and in the same manner in which they now collect other
7 State taxes, and shall by them be paid into the Treasury
8 of the State, at the same time and under the same penal-
9 ties which are here prescribed by law, for the collection
10 and payment of other State taxes.

XI. Each and every person shall annually render to
2 the Justice of the Peace appointed to take the list of
3 taxables and taxable property, the amount of tax which
4 he, either in his own right, or in the right of any other
5 person or persons whomsoever, either as guardian, attor-
6 ney, agent or trustee, or in any other manner whatsoever
7 is liable for under the Revenue Laws of this State, and it
8 shall be the duty of the said Justice to administer the
9 following oath to each and every person giving a list of
10 taxables or taxable property: You, A. B. do solemnly
11 swear, (or affirm as the case may be,) that you, either in
12 your own right or the right of any other person or per-
13 sons whomsoever, either as guardian, attorney, agent or
14 trustee, or in any other manner whatsoever, are not lia-
15 ble for more taxes under the laws of this State, than the
16 amount which you have now listed, and that in all other
17 respects, the list by you now delivered, contains a just
18 and true account of all the property which by law you
19 are bound to list for taxation, to the best of your knowl-
20 edge and belief, so help you God.

XII. It shall be the duty of every Justice of the Peace
2 who shall take a list of taxable property, before adminis-
3 tering the oath aforesaid, to call over to each person giv-
4 ing in his taxables, all the articles and subjects of taxa-
5 tion which he may be bound to list.

XIII. Each and every person liable to pay taxes by
2 and under the provisions of this act, who shall fail to list

3 the same, or refuse to take the oath herein prescribed,
4 shall, in addition to the payment of a double tax, forfeit
5 and pay into the Public Treasury the sum of one hundred
6 dollars for each year's failure or refusal; and it shall be
7 the duty of the several Sheriffs aforesaid, to levy, col-
8 lect and account for the same, as in case of double tax,
9 unless the County Court shall, within nine months there-
10 after, on satisfactory cause shown by such delinquent, or-
11 der said forfeiture to be released and remitted.

XIV. It shall be the duty of the several Sheriffs to
2 furnish the Attorney General and the Solicitors of their
3 respective circuits, at the first Superior Court which shall
4 happen after the tax lists are placed in their hands for
5 collection, with a list of all the persons liable for taxes
6 under this act, and who have failed to give in their tax;
7 and, upon such information, the Attorney General and
8 Solicitors of the several circuits, shall have power and au-
9 thority to file bills in the several Courts of Equity in this
10 State, against each and every person failing to render a
11 list of taxables and taxable property as by this act re-
12 quired, and compel a discovery upon oath, which discov-
13 ery shall not be held and deemed evidence to convict
14 such person for any penalty by this act annexed to such
15 failure.

XV. It shall be the duty of the Justice appointed to
2 take the list of taxable property, to list the articles here-
3 in required to be listed, in separate columns, headed as
4 follows:—INTEREST, DIVIDENDS AND PROFITS. And the
5 Clerks of the several County Courts shall record, adver-
6 tise and return the same to the Comptroller's Office, in
7 the same manner; and in case of failure, under the same
8 penalties, forfeitures and liabilities as are now prescribed
9 by law in relation to other taxes.

XVI. It shall be the duty of the Public Treasurer to
2 have prepared and printed, on suitable paper, forms of
3 tax lists, with all the articles subject to taxation and to be

4 listed under this act, and all other laws now in force, men-
5 tioned *seriatim* over the heads of parallel columns, in which
6 the amount or quantity of each article to be listed is to be
7 set down; and shall furnish to each County Court Clerk
8 in this State two copies of the same for each tax collec-
9 tion district in said county; and the cost of preparing
10 and printing the same, shall be paid out of the Public
11 Treasury.

XVII. It shall be the duty of the Register in each and
2 every county, on or before the first day of September, in
3 each and every year, to furnish the Comptroller with a
4 certificate of the name of the Sheriff of his county, and
5 the sureties to his bond for the collection of public taxes,
6 and a certificate of the name of the clerk of the County
7 Court, and the sureties to his bond for the faithful dis-
8 charge of his duty in office; which certificates, when certi-
9 fied by the Comptroller, shall, on motion of the Treasurer
10 for judgment against any such Sheriff or Clerk, and their
11 respective sureties be deemed equally valid in law, with
12 the bond of such Sheriff or Clerk, and the Court shall
13 give judgement and award execution thereon accordingly.

XVIII. If any Register shall fail to furnish the
2 Comptroller with such certificates, as directed in the last
3 section, he shall forfeit and pay the sum of one thousand
4 dollars, in each case, to be recovered by the Treasurer for
5 the use of the State.

XIX. *Be it further enacted*, That all the persons and
2 property, herein taxed, shall not be liable to be taxed by
3 the several County Courts.

XX. *And be it further enacted*, That an act, entitled
2 "An Act to increase the Revenue of the State" and rat-
3 ified on the 29th of January, 1849, and all other laws
4 and clauses of laws, coming within the meaning and per-
5 view of this act be, and the same are hereby repealed.

[SENATE Dec. 105.]

A BILL

FOR

THE IMPROVEMENT

OF

SHIP NAVIGATION

IN

NEW RIVER

IN

THE COUNTY OF ONSLOW.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

[SENATE Doc. 100.]

A BILL

FOR THE IMPROVEMENT

Senate, Jan. 7, 1851.

[Introduced by Mr. McMILLAN. Passed first reading and referred to Committee on Internal Improvement, and ordered to be printed.]

SHIP NAVIGATION

NEW RIVER

THE COUNTY OF OREGON

WITNESSETH

Thomas J. Brady, Trustee to the State

A BILL

For the improvement of the Ship Navigation in New River,
in the County of Onslow.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That it shall, and may be lawful for the Court of Pleas and Quarter Sessions of said county, a majority of the acting Magistrates being present, to appoint five Commissioners being freeholders in said county, whose duty it shall be to superintend the cleaning out, removing obstructions from, and deepening the ship channel in the River aforesaid, under the provisions herein after contained; that the said Commissioners, shall be appointed for the term of two years, and a majority of them shall have power to fill vacancies until the next term of the County Court.

II. *Be it further enacted,* That the aforesaid Commissioners are hereby authorised, to open Books in the different precincts in the county of Onslow, under the supervision of suitable persons, for the purpose of obtaining subscriptions to carry out the above enterprise and that they appoint one of their number, as Treasurer or Trustee, whose duty it shall be, to keep a record of all their transactions, the subscriptions handed in, and receive the monies, as they become due.

III. *Be it further enacted,* That when the sum of five thousand dollars shall have been subscribed, the Books be closed, and subscribers be required to pay twenty per cent. on the amount of their individual subscriptions every ninety days, until the whole amount of five thousand dollars is paid in.

IV. *Be it further enacted,* That the sum of ten thousand dollars be, and the same is hereby appropriated for the purpose aforesaid, which shall be paid by the Treas-

4 snrer out of any monies, not otherwise appropriated, to
5 the said Commissioners, their agent or attorney, whenever
6 er it shall appear to him, from the certificate of the Clerk
7 of the County Court of said County, under seal of Court,
8 that the said Commissioners have been duly appointed;
9 and that the aforementioned sum of five thousand dollars
10 has been paid to said Commissioners for the purpose afore-
11 said.

V. *Be it further enacted*, That when said Commis-
2 sioners shall have collected, the sum of two thousand five
3 hundred dollars; they be required to employ a suitable and
4 efficient Engineer, to make a survey, and report on the
5 practicability of the work, making a correct plat or map
6 of the river, commencing at or near New River Bar, and
7 sounding up to Snead's Ferry, and that they employ a
8 suitable number of hands, with a practical and efficient
9 overseer, to carry on the work subject to their supervision:
10 Engineer, overseer and hands, to be paid out of the gen-
11 eral fund.

VI. *Be it further enacted*, That the Court of Pleas and
2 Quarter Sessions of the County of Onslow, aforesaid, are
3 hereby authorised to make such compensation to said
4 Commissioners for their services, as to said Court shall
5 seem expedient; and that said Court are hereby authorised
6 to lay or levy, a tax on the taxable property, for raising
7 funds necessary for the payment of said Commissioners;
8 and that the Sheriff of said county shall collect, and ac-
9 count for said tax, in the same manner as he collects and
10 accounts for other taxes by him collected.

VII. *Be it further enacted*, That said Commissioners
2 shall give bond and security, to be approved by the Coun-
3 ty Court aforesaid, in the sum of thirty thousand dollars,
4 payable to the State of North Carolina, for the faithful
5 performance of their duties as Commissioners.

VIII. *Be it further enacted*, That this act shall be in
2 force, from and after, its ratification.

[HOUSE Doc. 106.]

A MEMORIAL

PRAYING

THE ENACTMENT OF LAWS

TO

PROTECT AND ENCOURAGE THE MECHANICS

OF

NORTH CAROLINA:

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

HOUSE COMS. Jan. 13, 1851.

[Introduced by Mr. A. H. CALDWELL.]

[Laid on the table and ordered to be printed, except the names.]

A MEMORIAL,

FROM

THE MECHANICS OF ROWAN COUNTY.

*To the Honorable, the General Assembly
of the State of North Carolina:*

The undersigned, Mechanics of the county of Rowan, and others, friendly to the industrial pursuits of the people of this State, do most respectfully memorialize and petition your honorable Body, upon the subjects hereafter set forth.

Your petitioners represent that all of the mechanical arts are greatly depressed in North Carolina, by an undue competition arising : First, from free negro mechanics, and second, from mechanics both white and black, in the non-slaveholding States. The first species of competition is unfair for the following reasons, free negroes are, with us, a degraded class of men, living in a condition, but little better than that of the brute creation, and, having no regard for an honest name, and fair reputation, can procure such a living, by pilfering and theft : As a general rule, they idle away their time, and only labour, when more dishonest means fail them, and hunger oppresses them, and then, at prices regulated entirely by such temporary necessity. They are never governed in fixing the prices for their labour, by considerations of a fair compensation for the services rendered, but only, by the causes above set forth.

If the Legislature of North Carolina, would have the white mechanic live an honest and respectable life, accumulating a

sufficiency from honest labour, to support his family with comfort, and give to his children, a good moral and intellectual education, then, it is essentially necessary, that the above named unfair competition should be removed. As to the mode of effecting this object, is a question entirely for the consideration of your honorable body. With respectful deference your petitioners would suggest, that free negro mechanics, should, by law, be bound to an apprenticeship, so long, as they pursue their trade within the limits of this State, and, that they should only be permitted to work at such trade, under the direction and control of the master to whom they are bound, and that they should, furthermore, be required to take out a license, annually, upon proof of good moral character only, and paying therefor a reasonable fee to the State. The binding to apprenticeship might be annual, upon the taking out the license; this to a great extent would remove the grievance complained of, for the requisition of a license would exclude all dishonest and idle free negroes from the mechanical pursuits, and the binding to apprenticeship would place those, who do follow such trades, under the control of a master mechanic, who would secure a constant and honest service from such free negro.

The other source of undue competition to the industrial pursuits of this State arises, as heretofore stated by your petitioners, from the unrestricted trade, carried on here, in the fabrics and products of the non-slaveholding States, and from this competition your petitioners claim the protection of your honorable body. The protection of home against foreign industry, has been heretofore asked, exclusively, at the hands of the general government; such protection has at times, been granted by Congress, and at others, it has been denied, mainly, upon the ground, that Congress does not possess the Constitutional right to grant such protection.— Upon this question, your petitioners would not be understood, as expressing an opinion; but they do advance the opinion, that North Carolina, as a sovereign State, has never

surrendered, and that she does yet retain and possess the power to encourage her own industrial pursuits, by offering bounties, and by levying a tax upon the sale of fabrics and products, of any other State of the Union or any foreign country. And they are advised that this principle has been avowed, and acted upon, by the Legislature of the State, upon more than one occasion, and that their action has been fully sustained, by our Supreme Court, upon Constitutional principles. Reference is here made to the tax levied upon pedlars, in articles of the growth and manufacture of others States, and upon drovers, offering for sale here, negroes and stock from other States, and the decided cases—*Cowles vs. Britain*, 2 Hawks, and *Wynne vs. Wright*, 1 Dev. and Bat.

This power in the States, has also been acknowledged by the Supreme Court of the U. S. in the case of *McCullock vs. State of Maryland*, 4th Wheat, and *Brown vs. the State of Maryland*, 12 Wheat. These authorities, your petitioners are persuaded, are decisive upon the right of this State to protect her own industry, from the competition of the labour of the non-slaveholding States. As to the propriety of doing so, at this time, your petitioners would respectfully submit the following considerations. It is a most melancholy and well known fact, that at this time, a very large number, if not a decided majority, of the people of the non-slaveholding States, are waging a steady, fierce and unrelenting warfare, upon a very large portion of the property of citizens of this State, and avow their determination to abolish and destroy the institution of slavery, wherever it exists in this confederacy. By their action, a feeling of restless anxiety and painful foreboding for the safety and duration of our venerated Union has been excited in the minds of the people of this State. The spirit which has been cherished by our Northern Brethren upon this subject, has driven their infuriated Legislators, to nullify solemn enactments of the Congress of the U. S., and to the raising up of a "higher Law" than all civil legislation, dissolving all allegiance to constitu-

tional government, and teaching rebellion against every regulation that may be adopted for the order and security of society. This torrent, setting in upon slave property, receiving, as it does, the sympathies of many foreign nations, threatens to sweep away, in its march, a large portion of the wealth of North Carolina. Shall it be stayed in its ruthless progress? And yet how can this be done, so long as our wealth is contributed to feed the men, who are enlisted in this unholy warfare? Yes, the very elements of our destruction are kept in motion by our toil and our labor. The very apparel which is worn by our slaves, is furnished at a profit, by those men, who make war upon slave property. The slave-holder here, indulges in his insecure luxuries, procured from the very men, who would take away his property, and reduce him to beggary. For a verification of these assertions, your petitioners, need only refer to the large sums of money carried annually, into the non-slaveholding States, to purchase negro clothing, negro shoes, and clothing, carriages, furniture, and other luxuries for the slave-holder. So long as a part of our wealth, is thus directed, to the destruction of another portion, we cannot expect to build up a prosperity for our State.

In view of the foregoing considerations, your petitioners would most respectfully suggest, to your honorable body, the propriety of laying a tax upon all persons, who offer for sale, in this State, the following articles, and such others as may, in your wisdom be proper, (to wit:) shoes, harness, dressed leather, cotton yarns and cloth, such as are manufactured in this State, furniture of every kind, carriages and waggons of every description, ready-made clothing, such articles as are made by blacksmiths in this State, salt, fish, flour and hay. And that the amount of such tax, should be regulated by the quantity of such articles offered for sale.

Your memorialists, do most respectfully petition your honorable body, to carry into effect the objects set forth in this

memorial, and they do hereby instruct their immediate Representatives, to use their best endeavors, to secure this end, believing, as they do, that the same would result in prosperity to North Carolina, and tend to the perpetuity of the Union of the States.

With profound respect,

Your fellow citizens,

J. W. BROWER, and 200 others.

...and that he hereby instructs their immediate representatives to use their best efforts to secure the passage of such a bill, and that the same would result in a measure to North Carolina, and tend to the prosperity of the State of the State.

With respectful regards, I am, Sir, very respectfully,

Very truly yours,

W. H. H. [Signature]

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[House Doc. 107.]

REPORT

OF THE

COMMITTEE ON FINANCE

ON A MEMORIAL

TO IMPOSE A TAX

UPON

MERCHANTS OR VENDERS

OF ARTICLES OF

NORTHERN MANUFACTURE.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851,

REPORT.

The Committee on Finance, to whom was referred a memorial of sundry citizens of the county of Guilford, praying this General Assembly to impose a tax upon merchants or venders of articles of Northern manufacture, which come in competition with mechanical labor in this State, have considered the same, and report, that the question involved in the memorial is brought distinctly before this House, by the report of a majority of the committee upon the subject of Negro Slavery, and they therefore ask to be discharged from the further consideration of the subject.

A MEMORIAL

RELATIVE TO

IMPOSING A TAX

ON

VENDERS OF ARTICLES

OF

NORTHERN MANUFACTURE.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1850.

House Com's, Dec. 4th, 1850.

[Introduced by Mr. D. F. CALDWELL. Read, and on motion of Mr. D. F. Caldwell, referred to Committee on Finance.]

Dec. 20th, 1850.

[Laid on the table on motion of Mr. D. F. Caldwell.]

January 13th, 1851.

[Ordered to be printed.]

A MEMORIAL

FROM THE

CITIZENS OF GUILFORD

TO TAX

NORTHERN MERCHANDISE.

To the Honorable the General Assembly

Of the State of North Carolina :

The memorial of the undersigned, citizens of the county of Guilford, respectfully sheweth :

That WHEREAS, it is understood, the necessities of the Public Treasury require an increase of revenue which must be raised by additional taxes upon objects already included in the revenue laws, or derived from objects of taxation hitherto exempt ;

And WHEREAS, many articles, the product of cheap mechanical labor in the North, are brought into this State and sold at prices so low that it is vain for our mechanics at home to attempt to keep up competition—thus driving our own productions out of the market, and compelling an industrious class of our working-men to engage in pursuits to which they have not been bred, and are not fitted by habit, or to seek other fields of labor beyond the borders of their native State ;

And WHEREAS, the present unhappy attitude of the Northern and Southern sections of the Union, render it necessary

for our people—cherishing a proper jealousy of their true interests, present and future—to develop and cultivate, in all judicious and constitutional ways, sources of *independence among themselves*;

The undersigned, therefore, believe that the Revenue Laws of the State may, consistently, and ought to be so amended and arranged, as to afford some substantial protection and encouragement to the mechanic arts within this State; and pray your honorable body to consider the proposition to lay suitable taxes upon merchants or venders of articles, the manufacture of other States, which come in competition with mechanical labor in this State.

And so your memorialists will ever pray.

JAMES F. JOLLEE and others.

Nov. 27, 1850.

[HOUSE Doc. 108.]

REPORT

OF THE

COMMITTEE

ON THE

RALEIGH AND GASTON RAIL ROAD.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

HOUSE COMS. Jan. 14, 1851.

Reported by Mr. R. M. SAUNDERS from the Committee on the Raleigh and Gaston Rail Road. Ordered to be printed, together with the Amendments proposed by the Committee, and made the order of the day for Thursday next.]

REPORT.

The select committee to whom was referred the resolutions and bills in regard to the Raleigh and Gaston Railroad, having duly considered the subject, respectfully report,

That as the committee were unable to hear of any persons disposed to purchase the interest of the State in the road, and as the committee believed it extremely doubtful whether a company could be found in this State, likely to engage in so large an enterprise on such terms as to justify the State in disposing of property which cost so large a sum, the committee have directed their attention to the other branch of the inquiry as to the best mode for the reconstruction of the road. The bill which has passed the Senate proposes the incorporation of a new company, with a capital of eight hundred thousand dollars, the State to retain one half, in consideration of her present interest in the Raleigh and Gaston road—the other half of four hundred thousand dollars to be subscribed for by the old stockholders, and by such other persons as might feel so inclined—that in the event of a failure, thus to have the stock taken, then the road to be sold; *provided* the sum of five hundred thousand dollars can be had for the same. The committee hardly think it necessary to remark on such a proposition, that persons can be found, who would be willing to subscribe and pay four hundred thousand dollars, for one half of a road, for which the State offers to take for the whole, five hundred thousand. If the committee thought it at all likely the road could be sold for the sum, which the Governor is authorized to take, then they would not hesitate in recommending a sale. But as the committee believe a sale cannot be made, on the terms proposed, nor the stock taken, under the bill as passed by the

Senate, they have sought to ascertain whether or not some other plan might not be fallen on, more likely to be attended with success. With this view, the committee, through its chairman, have had several interviews with such of the stockholders in the old road, as it was thought felt the deepest interest in the matter. From these, as the committee learn, the sum of four hundred thousand dollars can be raised, as proposed by the bill of the Senate, on condition, that the Legislature shall see fit to release them, and such other persons as may have become bound to indemnify the State against loss, under the acts of 1838 and 1840. To decide as to this proposition, the committee have examined into the question, as to the extent of the liabilities of the stockholders and other obligors, in order to determine what it is the State is called upon to surrender.

The Raleigh and Gaston Rail Road Company, was incorporated with a capital of seven hundred thousand dollars, which, having been subscribed and expended in the construction of the road, and that sum proving insufficient, the company found it necessary to apply to the State for its assistance. Accordingly, at the session of 1838, an act was passed for the relief of the road, by which it was provided that the Treasurer of the State should endorse bonds to the amount of five hundred thousand dollars, on condition that the President and Directors of the company should mortgage the effects of the company, to secure the State against loss, by reason of its guarantees, and execute a pledge of the profits of the road, for the payment of the interest on the loan. This being done to the satisfaction of the Governor, the bonds were endorsed and delivered over by the Treasurer as the act required.

The act of 1838 farther provided that the stockholders should be individually liable, to the extent of their stock, for the payment of the principal and interest of the loan. This, however, was a mere legislative declaration, and not a condition, precedent on which the bonds were to be endorsed and

delivered over by the Treasurer of the State. As the sum proved insufficient for the relief of the company from its embarrassment, a further application was made to the State: and, at the session of 1840 and 1841, another bill was passed, intended to relieve the company, and at the same time to save the State from loss by reason of her guarantee of the bonds under the act of 1838. With this view, it was provided, that the Treasurer should endorse bonds for the further sum of three hundred thousand dollars, on condition, that the stockholders and other persons should execute their individual bonds to the amount of five hundred thousand dollars to indemnify the State against loss by reason of the endorsement of the bonds issued under the act of 1838—"should the real and personal estate of company, mortgaged as aforesaid, prove to be insufficient to discharge the principal of said bonds"—with the further mortgage and pledge of the effects of the company and the profits of the road to pay the loan of three hundred thousand dollars. As the company failed to meet the payment of the interest or principal of the loans thus guaranteed by the State, the mortgage was foreclosed, and the road sold for the benefit of the State; and the Governor, under the direction of a subsequent act of the Legislature, became the purchaser of the road, for the sum of three hundred and sixty three thousand dollars, being the amount of the principal and interest due on the loan of three hundred thousand dollars.

Suits have been brought against the obligors on the bonds given under the act of 1840, in which the State seeks to recover for the loss which it is alleged she has sustained by reason of the endorsements by the Treasurer of the bonds of five hundred thousand dollars. On the part of the defendants, it is contended, they are only liable for the sum of one hundred and thirty seven thousand dollars, being the difference between the purchase of the road at three hundred and sixty three thousand dollars and the five hundred thousand dollar bonds; and that for this difference they are not to pay

before the year 1860. From the condition of the bonds on which suits have been brought, it would seem pretty clear the State could only recover for the loss she may have sustained from "the insufficiency of the real and personal estate of the company mortgaged under the act of 1838 to discharge the principal;" for such are the words of the condition to the bond. The Attorney General, to get over this difficulty in the suits on the bonds, has filed a Bill in Equity alleging a mistake in the wording of the bonds, and praying for its correction, or that the stockholders should be held as liable by reason of their acceptance of the terms as prescribed by the acts of 1838 and 1840.

From this recital, the House will be enabled to learn how the question in dispute arises, though they may find it not so easy to decide what is to be the result of the dispute.

It is proper, also, the committee should state, that nearly one half of the stockholders and obligors have either died, left the State, or proved to be insolvent. As the old stockholders have lost their entire capital of seven hundred thousand dollars, many of whom are widows and others the orphans of those who have thus suffered like soldiers who have fallen in the service of their country, the committee are inclined to recommend that the Legislature should extend to them such relief, as, under their adverse circumstances, they would seem to merit.

The committee deem it their duty to say, they think the chances are against the State's recovering more than the difference between the sum given under the purchase and the first loan; and from that sum is to be deducted the proportional amount due by insolvents. The result of this unfortunate business is a loss of near one million and a half of dollars, the stockholders losing nearly one half, and the State having the road, in its present condition, as the only thing to indemnify her for the other half of the loss. Under this state of facts the committee do not hesitate to recommend the compromise as proposed by the old stockholders and other obligors, that on condition of their subscribing or procuring others to subscribe and pay the four hundred thousand dollars, that they shall have one half of the road, and be released and discharged from their liability to the State. Such a compromise, the committee, as individuals, would most readily accept, and they feel justified in recommending it to the Legislature. To this end, the committee propose certain amendments to the bill of the Senate, and, with their adoption by the House, recommend that the bill do pass.

All of which is respectfully submitted.

PROPOSED AMENDMENTS.

IV. *Be it further enacted,* That as an inducement to the stockholders, and all such persons as may have become bound to indemnify the State against loss by reason of the loans made to the Raleigh and Gaston Railroad Company, and guaranteed by the State according to the provisions of the several acts of Assembly passed in the years 1838 and 1840, to subscribe for stock in the company hereby incorporated, that, whenever the sum of one hundred and fifty thousand dollars shall have been paid, and the balance of two hundred and fifty thousand dollars shall have been secured as hereinbefore provided for, then the said stockholders and obligors shall be forever released and discharged from all liability to the State, by reason of the laws and guarantees aforesaid; and the Governor is hereby authorized and directed to suspend the prosecution of the suits now pending in Wake Superior Court against the said stockholders and obligors, until such time as it shall be ascertained whether the four hundred thousand dollars shall be subscribed, paid and secured as hereinbefore proposed, provided the above condition shall be complied with by the said stockholders and obligors, on or before the first day of October next: whereupon the said suits are to be dismissed at the cost of defendants.

V. *Be it further enacted,* That it shall be lawful for the executor or administrator of any deceased person, who became bound in their life-time to indemnify the State of North Carolina against loss by reason of loans made to the Raleigh and Gaston Railroad Company, and guaranteed by the State, according to the provisions of the several acts of Assembly, passed in 1838 and 1840, to subscribe for any amount of stock in the company hereby incorporated, not exceeding the amount of said

10 deceased person's liability to the State, and such sub-
11 scriptions shall bind the estate of the testator or intes-
12 tate, and the heirs, devisees, legatees, or next of kin, as
13 the case may be, shall not charge the personal represen-
14 tative aforesaid as for a *devastavit* or otherwise; and in
15 case the said heirs, devisees, legatees or next of kin,
16 shall attempt so to do, then no part of the provisions of
17 this act for releasing the sureties to the State as afore-
18 said, shall enure to the benefit, relief or discharge of the
19 testator or intestate, or his property and estate, whose
20 heir, devisee, legatee or next of kin shall object to the
21 subscription for stock by such executor or administrator;
22 but the said testator or intestate and his property and es-
23 tate shall remain liable as now they are or may be, in all
24 respects, as if this act had not been passed.

VI. *Be it further enacted*, That where the property
2 and estate of any infant under twenty-one years of age,
3 shall be liable to the demands of the State on account of
4 the loan and guaranty in the preceding sections mention-
5 ed, it shall be lawful for the guardian of such infant to
6 subscribe, in behalf of his ward, for stock in the compa-
7 ny hereby incorporated, to an amount not exceeding the
8 sum for which the property and estate of said ward is or
9 would be liable to the State as aforesaid; and in the case
10 the said ward should attempt to make his guardian liable
11 to account to him or her for any thing more than the
12 stock so subscribed and paid by his guardian, then no
13 part of the provisions of this act, for releasing the sure-
14 ties to the State as aforesaid, shall enure to the benefit, dis-
15 charge or relief of the said infant's property and estate;
16 but the same shall remain bound as it now is or may be,
17 in all respects, as if this act had not passed.

VII. *Be it further enacted*, That in case of a domes-
2 tic invasion or insurrection, the said company shall trans-
3 port the troops and munitions of war of the State of
4 North Carolina, free of charge.

[SENATE Doc. 109.]

REPORT OF THE COMMITTEE

TO WHOM WAS REFERRED

THE BILL TO IMPROVE COUNTY PRISONS

AND TO ESTABLISH

HOUSES OF CORRECTION.

RALEIGH:

Thos. J. Lemay, Printer to the State.

1851.

Senate, 17th Dec. 1850. Reported by Mr. WOODFIN,
from Committee, and ordered to be printed with amendment,
and made the order of the day for Tuesday, 24th.

REPORT.

The committee, to whom was referred the bill to improve the county prisons and to establish houses of correction, have had the same under consideration, and instruct me to report the same with the amendment marked A, as an additional section, and recommend its passage.

Respectfully submitted,

N. W. WOODFIN, *Chairman.*

[A.]

Be it further enacted, That any two or more counties
2 may unite in improving the prison and enlarging or
3 building work-houses &c. in any one county, on such
4 terms as the justices of the counties so uniting may agree;
5 and for the purpose of making such contract, the justices
6 are authorized to appoint commissioners (not exceeding
7 five in number) to represent the county in making the
8 contract ; and the agreement so made, shall be valid and
9 binding on the counties so contracting.

[SENATE Doc. 109.]

A BILL

TO

IMPROVE THE COUNTY PRISONS

AND TO ESTABLISH

HOUSES OF CORRECTION.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

SENATE, Dec. 13, 1850.

[Introduced by Mr. WOODFIN. Passed 1st reading and referred to Committee on the Judiciary.]

SENATE, Dec. 24, 1850.

[Passed 2nd reading and made order of the day for Thursday week next.]

SENATE, Jan. 2, 1851.

[Special order for Monday.]

SENATE, Jan. 16, 1851.

[Special order for to-morrow, 12 M.]

SENATE, Jan. 17, 1851.

[Special order for Monday 11 o'clock.]

A BILL

To improve County Prisons and to establish houses of correction.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That the Justices of the several Courts of Pleas and Quarter Sessions of each county in this State (a majority of the Justices of the Peace for the county being present) shall have power to build and erect suitable houses, and workshops and yards, with safe and suitable enclosures, in connection with the county jails, for the employment and correction of public offenders, and until such houses are constructed, the county jails, or part thereof, shall be used as work shops and places of correction, and may be enclosed with such yard, and in such manner as the justices of the respective County Courts may order.

II. *Be it further enacted,* That the Justices of the Peace for the several counties, a majority being present, in Court, shall prescribe and establish rules and regulations for the government and management of their respective county jails and houses of correction, and shall appoint inspectors or visitors, not to exceed five in number, and assign them their powers and duties, in visiting, overlooking and directing the execution of the rules, established for the management of said jails and houses of correction, and the prisoners.

III. *Be it further enacted,* That the County Courts of the several counties in this State, at their first Courts that shall happen, after the ratification of this bill, and annually thereafter, may appoint a keeper of the jails and houses of correction, who shall take an oath of office, and give bond, payable to the State of North Carolina, in the sum of four thousand dollars, with ample sureties, conditioned for the faithful and diligent discharge of

9 his several duties required by law, or by the order of said
10 Court, or the inspectors or visitors of said prison, and
11 the Court shall, from time to time, have power to fix the
12 fees and compensation of the jailer or keeper of the pris-
13 on and work house, and prescribe his duties, and appoint
14 or allow him to appoint the necessary assistants.

IV. *Be it further enacted*, That, if for any cause the
2 County Court of any county shall fail to perform the du-
3 ties enjoined in the third section of this bill, they may do
4 it at a subsequent Term.

V. *Be it further enacted*, That the said Courts may
2 procure, or direct the jailer or inspectors to procure, such
3 tools as may be found necessary for the labor of the pris-
4 oners; and the Court may direct what labor each prisoner
5 shall perform, or may leave that to the keeper or to the
6 inspectors, as to the Court shall seem proper.

VI. *Be it further enacted*, That the Sheriffs of the
2 several counties adopting this system, shall not be respon-
3 sible for the prisoners or have any control over them,
4 except by order of the Court, after their committal: *Pro-*
5 *vided*, that this exemption shall not operate in any coun-
6 ty until the jailer shall be appointed by virtue of this bill.

VII. *Be it further enacted*, That it shall not be law-
2 ful for any Judge of the Superior Court or the justices of
3 any County Court to order the inflicting of any whipping,
4 branding, impillory or other corporal punishment, for
5 any crime hereafter committed, but on conviction of any
6 offence now requiring such corporal punishment, the
7 Court may order and adjudge that the person or persons
8 so convicted shall be imprisoned to hard labor for a term
9 not exceeding five years. And on the certificate of the
10 clerk of such Court accompanying the record of such
11 conviction and sentence, it shall be the duty of the jailer
12 and keeper of the house of correction, to receive and con-
13 fine the prisoner or prisoners, and require of him or them
14 to perform the labor according to the judgment of the
15 Court.

VIII. *Be it further enacted*, That on conviction of
2 an assault with intent to murder, on conviction of maim-
3 ing or malicious stabbing, the defendant shall be sentenced
4 to imprisonment at hard labor, not exceeding three years;
5 and every person convicted of trading with slaves, shall
6 be sentenced to be imprisoned to labor not longer than
7 one year.

IX. *Be it further enacted*, That all vagrants, convict-
2 ed under the existing laws, may be committed to the
3 house of correction for a term not exceeding three
4 months.

X. *Be it further enacted*, That the jailer or keeper
2 shall (if he find it safe to do so) allow any prisoner, be-
3 fore conviction, to labor at any suitable and appropriate
4 work that may be on hand; and if such prisoner shall
5 not be convicted, then any net profit on his labor, after
6 paying for his lodging and boarding, (if any,) shall be
7 paid to said prisoner, on his release from prison.

XI. *Be it further enacted*, That all slaves and free
2 negroes lodged in such jails, shall be required to labor
3 under the direction of the keeper of the prison and work
4 house, so long as they continue in prison.

XII. *Be it further enacted*, That if it shall be made
2 to appear before any Judge of the Superior Courts trying
3 any case, that there is no safe and sufficient jail or house
4 of correction in such county in which a prisoner may be
5 convicted, before such Judge, of any infamous offence,
6 (not punishable with death by the existing laws) it shall
7 be the duty of such Judge to send such prisoner to any
8 other convenient jail or work house or house of correc-
9 tion, in another county, where there may be sufficient
10 room and accomodation, there to be kept at labor as is
11 heretubefore provided for convicts in the respective coun-
12 ties.

XIII. *Be it further enacted*, That all prisoners shall
2 be treated with humanity and furnished with wholesome
3 food. But if any prisoner bound to do any work, shall

4 refuse to do the same and obey the lawful orders of the
5 keeper, or become refractory, the keeper, with the appro-
6 bation of a majority of the inspectors, may put such pris-
7 oner in close and solitary confinement, and feed him
8 with bread and water only, until he yield and agree to
9 perform his duty as required.

XIV. *Be it further enacted*, That if any prisoner shall
2 break or escape from prison, he shall be liable to indict-
3 ment therefor, and, on conviction thereof, shall be liable
4 to farther imprisonment, at the discretion of the Court,
5 not exceeding the original term for which he was first
6 sentenced.

XV. *Be it further enacted*, That if any prisoner shall
2 commit any violence on the keeper or his assistant, it
3 shall be competent for a majority of the inspectors of
4 such prison to direct his confinement and treatment, by
5 way of restricting his food to bread and water, until he
6 is subdued; and such offender shall be further subject to
7 indictment in the Superior Court of Law for the county
8 in which the offence is committed, and, on conviction,
9 shall be imprisoned to hard labor for a term, to be ad-
10 judged of by the Court, not exceeding twice the term of
11 his first imprisonment.

XVI. *Be it further enacted*, That it shall be compe-
2 tent for the keeper of the prison, or the inspectors, to con-
3 tract for any materials to be worked up, and to take in
4 and perform any work for any person or corporation, as
5 the County Court of his county shall and may direct, to
6 pay the expenses, collect and receive all moneys arising
7 from the labor of the prisoners, and from the sales of the
8 manufactured articles; and shall keep a full and correct
9 account of all the transactions on account of said pris-
10 on, and to keep a book, shewing faithfully, all receipts
11 and disbursements on account of such prison, and such
12 books shall be always open to the inspection of the in-
13 spectors and to the County Court or any committee that
14 the Court may appoint; and said Jailer shall make a re-

15 port to each Term of said Court of the management of the
 16 prison and make settlement of his accounts as often as the
 17 Court shall require it, not oftener than once in three months.

XVII. *Be it further enacted*, That if any Jailer or his
 2 assistant, or any officer appointed to any duty by the
 3 County Court of any county by virtue of this bill, shall
 4 be guilty of neglect or abuse of his or their duty, he or
 5 they shall be subject to indictment, and, on conviction,
 6 shall be fined or imprisoned at the discretion of the
 7 court.

XVIII. *Be it further enacted*, That it shall be compe-
 2 tent for the County Court of each county, (a majority of
 3 the justices being present) to remove any jailer or keeper
 4 of the prison, on ten day's notice given him in writing ;
 5 which notice may be given by any citizen of the county.

XIX. *Be it further enacted*, That in the recess of the
 2 court, if it shall be represented to the inspectors of any
 3 prison, that the jailer is guilty of cruel treatment of the
 4 prisoners or other abuse of power or neglect of duty, it
 5 shall be competent for such inspectors to examine into the
 6 cause of complaint, and if they deem it well founded,
 7 they may call such jailer before three justices of the
 8 peace for the county, at the office of the County Court,
 9 and if a majority of such justices, and a majority of the
 10 whole number of inspectors shall concur, it shall be com-
 11 petent for them to suspend such keeper, and appoint some
 12 suitable person to act in his stead until the next term of
 13 the court, taking bond and surety of such appointee as
 14 required of jailers in this bill, and the Clerk of the Coun-
 15 ty Court shall record the same. And the County Court,
 16 at its next term, shall make a final decision on the case,
 17 either confirming the order of removal, or reversing it,
 18 and reinstating such jailer.

XX. *Be it further enacted*, That where any prisoner
 2 convicted in any county in which there is no sufficient
 3 work-house, shall be sentenced to imprisonment in any
 4 other county, the same shall be at the expense of the
 5 county in which the offence was committed. But, in all
 6 such cases, a credit shall be allowed for the reasonable
 7 value of all the labor performed by such prisoner, and
 8 for the purpose of ascertaining whether there be any bal-
 9 ance against such prisoner, an account shall be opened
 10 with him, charging him only the same rate allowed for
 11 feeding other prisoners, and allowing him a reasonable
 12 value for the labor performed by him, and if there be a
 13 balance against such prisoner, it shall be paid by the
 14 county in which the indictment originated.

XXI. *Be it further enacted,* That in all cases of indictment against free negroes, in which the courts have the power of ordering them to be hired out, it shall be competent for the court to order such free negro to be imprisoned in the house of correction, at hard labor, for such term as the court shall adjudge; but in no case shall they be kept in the same apartment with white prisoners.

XXII. *Be it further enacted,* That it shall be the duty of the grand jury, at each term of the County and Superior Court, to visit, and examine carefully into the state of the prison and the treatment of the prisoners, and report the same to the court, and if it appear from such presentment or otherwise, that the prison is not kept cleanly and well supplied with wholesome food, and supplied with blankets sufficient to keep the prisoners comfortable, it shall be the duty of the Solicitor to prosecute the jailer therefor; and, on conviction, he shall be fined or imprisoned at the discretion of the court.

XXIII. *Be it further enacted,* That if any minister of the gospel offers to preach to the prisoners on the Sabbath, it shall be the duty of the jailers to allow the same; and at all times to furnish each apartment with a copy of the Bible.

XXIV. *Be it further enacted,* That it shall be the duty of the County Courts, at least once in every year, to make a full settlement with the jailer, and, at the next session of the General Assembly, to lay before the Legislature a full and fair statement of the operation of the law; shewing the number of prisoners that have been in prison under this bill, the term of service, the business pursued, the expense and the profit arising therefrom.

XXV. *Be it further enacted,* That it shall not be lawful for any keeper of the jail or work house to suffer or permit the prisoners to remain idle in the yard and converse together, but shall only permit them in the yard or shop while closely engaged at labor, and only in the day time; and, in all cases, where the prisoner is sentenced for one year or more, shall keep him secured by a chain while out of the jail, and shall not allow any persons unconnected with the management of the prison to visit the shops or yard, without written permission from a majority of the inspectors: *Provided,* that ministers of the gospel, shall, at all times, be permitted to visit the prisoners, and talk with them, except in work hours.

A BILL

TO

Repeal an Act of Last Session,

ENTITLED

"An act to increase the Revenue of the State,"

AND

FOR OTHER PURPOSES.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

House of Commons, Jan. 23, 1851.

[Introduced by Mr. RAYNER, and on motion of Mr. Winston, ordered to be printed.]

A BILL

To repeal an act passed at the Session of 1848-'49, entitled "an act to increase the Revenue of this State," and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter there shall be annually levied the sum of eighteen cents on every hundred dollars actually owing and due from or by any debtor or debtors, whether the same be individuals, companies, or corporations, or in any other way, and bearing interest, whether in this State or out of it, at the time the person or persons, to whom the same may be due, shall give in his, her, or their tax list. *Provided,* that each and every person or persons, on giving in his, her, or their tax lists, shall make an estimate of the amount due him, her, or them, of the principal of debts, which he, she, or they shall consider good, or worth the sum or sums specified in the bonds or notes held for the same, and the balance of the principal of debts due any persons, which he, she, or they shall consider doubtful, shall be estimated at what he, she or they, may consider them to be worth, making due allowance for the doubtful solvency of the person or persons owing the same; and the sum total, or adding the two amounts together, after making due allowance as aforesaid for debts considered doubtful, shall be the sum due, which each and every person shall be bound to list on oath, as money due.

II. *Be it further enacted,* That hereafter there shall be annually levied the sum of eighteen cents on every hundred dollars vested in trading in slaves, or vested in steam-vessels, or in any other species of trade, or vested

5 in stocks of any kind, or in shares of any incorporated
6 or trading company, whether in this State or out of it,
7 owned by the person or persons at the time of giving in
8 his, her or their tax list; *provided* that said money so
9 vested on stocks or shares shall have yielded as much as
10 six per cent. of dividend or profit for the year last past
11 before the giving in of the tax list by the owner of the
12 same—and in case the sum or sums, so vested shall have
13 yielded as much as five per cent. and less than six per
14 cent., then said sum or sums shall pay a tax of fifteen cents
15 on every hundred dollars—and in case the sum or sums
16 so vested shall have yielded as much as four and less than
17 five per cent. said sum or sums shall pay a tax of twelve
18 cents on every hundred dollars—and in case the sum or
19 sums so vested shall have yielded as much as three and
20 less than four per cent. said sum or sums shall pay a tax
21 of nine cents on every hundred dollars—and in case the
22 sum or sums so vested shall have yielded as much as two,
23 and less than three per cent. said sum or sums shall pay
24 a tax of six cents on every hundred dollars—and in case
25 the sum or sums so vested shall have yielded less than two
26 per cent. the same shall be exempt from taxation alto-
27 gether. *Provided further*, that this act shall authorize
28 the taxing of only such profits of the Banks of this State
29 as they shall make from trading in stock and bonds as dis-
30 tinguished from “bills receivable.” And in case the per-
31 son or persons so owning money vested, or stock, or shares
32 as aforesaid, shall not know, and can not ascertain, what
33 dividend or profit may have been yielded by the same, for
34 the year last past before giving in his, her, or their tax
35 list; the same shall be held and deemed to have yielded
36 six per cent; and shall be so listed accordingly.

III. *Be it farther enacted*, That each and every person
2 or persons shall have two hundred dollars either in debts
3 due, or in money vested in stocks or shares as aforesaid

4 owned by, him, her, or them, and an amount equal to the
5 sum owing and due from him, her, or them, which shall
6 not be subject to the tax imposed by this act.

IV. *Be it further enacted*, That the provisions of this
2 act shall not extend to money due or stocks owned by
3 any Literary Institutions, or vested for charitable purpo-
4 ses.

V. *Be it further enacted*, That in addition to the tax
2 now imposed by their several charters upon the Banks of
3 this State, there shall be levied annually the sum of three
4 cents on every dollar of divided or profit made by the
5 Banks of this State from trading in stocks and bonds, as
6 distinguished from "bills receivable," which said tax the
7 Banks of this State shall hereafter pay into the Public
8 Treasury.

VI. *Be it further enacted*, That so much of the capital
2 stock in trade of any merchant or jeweler, wholesale or
3 commission merchant, as is now taxed by the 14th section
4 of the 102 chapter of the Revised Statutes, shall be ex-
5 empt from the provisions of this act—*provided*, that any
6 and all bonds, notes or stocks, which any such merchant,
7 jeweler, wholesale or commission merchant may own, shall
8 not be considered as a part of his capital stock in trade,
9 but shall be subject to the tax imposed by the second sec-
10 tion of this act.

VII. *Be it further enacted*, That hereafter, there shall
2 be annually imposed and levied the following taxes, to
3 wit : On all Surgeon Dentists, all practicing Physicians,
4 all practicing Lawyers, and on all other persons, (except
5 Ministers of the Gospel of every denomination, Governor
6 of the State and Judges of the Supreme and Superior
7 Courts) whose practice, salaries or fees, or all together,
8 shall yield an annual income of five hundred dollars, the
9 sum of three dollars for the first five hundred, and thirty
10 seven and a half cents for every additional hundred dol-
12 lars, as far as as twenty six hundred dollars, and all

13 whose peculiar salaries or fees or all together shall a-
14 mount to twenty six hundred dollars and upwards, shall
15 pay a tax of eleven dollars and no more.

VIII. *Be it further enacted*, That hereafter there shall
2 be annually imposed and levied on each and every incor-
3 porated Lodge of Masons, on each and every incorporat-
4 ed Chapter of Royal-Arch Masons; on each and every
5 incorporated Lodge of the Independant Order of Odd
6 Fellows; on each and every incorporated Tent of the In-
7 dependant Order of Rechabites; on each and every in-
8 corporated Division of the Sons of Temperance; on
9 each and every Fire Insurance and Life Insurance Com-
10 panies, a tax of two dollars and fifty cents, to be listed
11 under the head of "Incorporated Societies" by the chief
12 or presiding officer of said associations, at the same time
13 such presiding officer shall give in his own tax list.

IX. *Be it further enacted*, That hereafter there shall
2 be annually imposed and levied a tax on the following
3 articles, to wit : on all gold and silver plate, in use by
4 the owner or owners thereof, in value fifty dollars and
5 under, one hundred dollars, fifty cents; in value one hun-
6 dred and under two hundred dollars, seventy five cents;
7 and thirty seven and a half cents for every additional hun-
8 dred dollars worth of the same, as far as twelve hundred
9 dollars worth; and all gold and silver plate, in value
10 \$1200 dollars and over, shall pay a tax of five dollars, and
11 no more; on all buggies, barouches, carriages and other
12 pleasure vehicles whatsoever in use by the owner or
13 owners thereof, of the value of ninety dollars and under
14 two hundred dollars, fifty cents; of the value of two hun-
15 dred dollars and under three hundred dollars, one dollar,
16 and twenty five cents for each additional hundred dol-
17 lars in value of the same, as far as six hundred dollars;
18 and all of the value of six hundred dollars and upwards
19 shall pay a tax of two dollars and no more; on all gold
20 watches in use by the owner or owners thereof, under
21 one hundred dollars in value, thirty seven and a half

22 cents; of one hundred dollars and upwards in value, fifty
23 cents; on all silver watches in use by the owner or own-
24 ers thereof, ten cents: *Provided*, That all watches
25 shall be considered as gold or silver, the cases of which
26 may be of either kind of metal, *provided further*, that
27 all watches kept in shops and stores for sale shall not be
28 subject to this tax; on all harps in use by the owner or
29 owners thereof, (except in seminaries of learning) two dol-
30 lars; on all Piano Fortes, in use by the owner or owners
31 thereof, (except in seminaries of learning) one dollar; on
32 all pistols, bowie knives, dirks, and sword canes habitually
33 worn, or carried about the person of the owner, fifty cents
34 each; on all retailers of Wines, Cordials, or spirituous li-
35 quors, *ten dollars*; on all Billiard Tables, *one hundred*
36 *dollars*; on all Bowling Allies, whether called "Nine
37 Pin," or "Ten Pin" Allies, or by any other name, *twenty*
38 *five dollars*; on every pack of playing cards, *ten cents*,
39 and every merchant, shop keeper and public dealer, in
40 goods, wares, merchandise, or other thing, shall be liable
41 for the same, and shall state on oath, how many packs,
42 he or she has sold within the year, preceeding the time,
43 he or she shall give in his or her tax list; on all mort-
44 gages and deeds of trust, which shall be registered,
45 the sum of fifty cents; and the Register in each and ev-
46 ery county shall be liable for the same, and is hereby
47 required to make a return, under oath, taken before the
48 Clerk of the County Court, and certified under his offi-
49 cial seal, to the Comptroller of the State, on or before
50 of the number of mortgages and deeds
51 of trust by him registered in the preceeding year, and
52 pay over the amount of taxes thereon, under a penalty of
53 one hundred dollars, to be recovered by the Public Treas-
54 urer, on motion, in any Superior Court of Law in this
55 State; and the said Register shall not be required to reg-
56 ister any mortgage or deed of trust, until the person and
57 persons presenting the same, shall have paid the tax
58 hereby imposed, in addition to the fees now by law estab-

59 lished; on all marriage licenses, the sum of seventy-five
60 cents each; and the Clerks of the several County Courts are
61 hereby authorized and required to collect the tax hereby
62 imposed in addition to their own fees, and it shall be the
63 duty of the said clerks to make a return, under oath, to
64 be taken before the clerk of the Superior Court of their
65 respective counties and by him certified under his official
66 seal to the Comptroller of the State on or before
67 in each and every year, of the number
68 of marriage licenses issued by him, or his lawful deputy,
69 or by any other person for him during the preceeding
70 year, and pay over the amount of taxes due thereon, un-
71 der a penalty of one hundred dollars, to be recovered
72 against him and the sureties to his official bond in any
73 Superior Court of law in this State, on motion of the Pub-
74 lic Treasurer.

X. The owner or owners of every toll-bridge or ferry
2 in this State, shall hereafter pay annually a tax on the
3 same, in proportion to the profits arising from said bridge
4 or ferry, viz: fifty cents on all ferries and bridges the
5 profits of which are less than fifty dollars—if over fifty,
6 and less than one hundred dollars, seventy-five cents;
7 if one hundred and less than one hundred and fifty dol-
8 lars, one dollar; if one hundred and fifty and less than
9 two hundred dollars, one dollar and fifty cents; if two
10 hundred dollars or more, two dollars; which ferries or
11 bridges shall be annually listed as other property.

XI. *Be it further enacted*, That hereafter, there shall
2 be annually levied and collected from all the real pro-
3 perty, with the improvements thereon, within this State,
4 now subject by law to taxation, the sum of seven cents on
5 every hundred dollars value thereof, instead of six cents
6 as now provided by law; and on every free male poll be-
7 tween the ages of twenty-one and forty-five years, and on
8 each and every slave poll of both sexes, between the ages
9 of twelve and fifty years, there shall be annually levied

10 and collected a tax of twenty-two cents, instead of twenty
11 ty cents as now provided by law. The agent or agents
12 of all insurance companies, not incorporated in this State,
13 shall hereafter pay an annual tax of twenty dollars, in
14 every county where such agency shall be established, to
15 be collected and accounted for by the sheriffs of the several
16 eral counties as other taxes; and in case the said agent or
17 agents shall fail to pay the tax hereby imposed, he or
18 they shall be individually liable for a tax of one hundred
19 dollars, to be collected by the Sheriff of the county where
20 such failure takes place, by distress and sale of the property
21 of the said agent or agents, to be applied three-
22 fourths to the use of the State, and one-fourth to the use
23 of the Sheriff collecting the same.

XII. Every person who shall bring any horses or
2 mules or hogs into this State, from any other State by the
3 drove, and shall dispose of the same or any part thereof,
4 in any county in this State, shall pay the Sheriff of every
5 such county, the sum of five dollars, which tax shall be
6 accounted for by the Sheriff in like manner as other public
7 lic taxes; and upon paying such tax, and a receipt there-
8 for, and a license to sell such droves or part thereof, such
9 person shall be authorized to sell and retail such horses
10 or mules that may belong to their present droves, and no
11 other for the term of one year; and each and every person
12 who shall sell such drove of horses or mules, or any
13 part thereof, without previously having paid the tax there-
14 on, and without having obtained a license so to do, or
15 who shall refuse or neglect, upon the request of the Sheriff
16 or his lawful deputy, or any Justice of the Peace, to show
17 such license, shall pay a tax of one hundred dollars, to be
18 collected by the Sheriff of the county, where such failure
19 takes place, by distress and sale of the property of such
20 delinquent, to be applied, one half to the use of the State,
21 and one half to the use of the Sheriff: *provided*, that the
22 tax hereby imposed shall not be construed to apply to

23 the sale of any hog or hogs, which the owners or drovers
24 thereof may be induced to sell or offer to sell, in conse-
25 quence of their being broken down and unable to travel.

XIII. *Be it further enacted*, That the taxes, by this act
2 imposed, shall be returned on oath to the Justices of the
3 several counties in this State, appointed to take the list
4 of taxables and taxable property; and shall be collected
5 by the Sheriffs of the several counties at the same time,
6 and in the same manner in which they now collect other
7 State taxes, and shall by them be paid into the Treasury
8 of the State, at the same time and under the same penal-
9 ties which are here prescribed by law, for the collection
10 and payment of other State taxes.

XIV. Each and every person shall annually render to
2 the Justice of the Peace appointed to take the list of
3 taxables and taxable property, the amount of tax which
4 he, either in his own right, or in the right of any other
5 person or persons whomsoever, either as guardian, attor-
6 ney, agent or trustee, or in any other manner whatsoever
7 is liable for under the Revenue laws of this State, and it
8 shall be the duty of the said Justice to administer the
9 following oath to each and every person giving a list of
10 taxables or taxable property: You, A. B., do solemnly
11 swear, (or affirm, as the case may be,) that you, either in
12 your own right or the right of any other person or per-
13 sons whomsoever, either as guardian, attorney, agent or
14 trustee, or in any other manner whatsoever, are not lia-
15 ble for more taxes under the laws of this State, than the
16 amount which you have now listed, and that in all other
17 respects, the list by you now delivered, contains a just
18 and true account of all the property which by law you
19 are bound to list for taxation, to the best of your knowl-
20 edge and belief: so help you God.

XV. It shall be the duty of every Justice of the Peace
2 who shall take a list of taxable property, before adminis-
3 tering the oath aforesaid, to call over to each person giv-
4 ing in his taxables, all the articles and subjects of taxa-
5 tion which he may be bound to list.

XVI. Each and every person liable to pay taxes by 2 and under the provisions of this act, who shall fail to list 3 the same, or refuse to take the oath herein prescribed, 4 shall, in addition to the payment of a double tax, forfeit 5 and pay into the Public Treasury the sum of two hundred 6 dollars for each year's failure or refusal; and it shall 7 be the duty of the several Sheriffs aforesaid, to levy, collect 8 and account for the same, as in case of double tax, 9 unless the County Court shall, within nine months thereafter, 10 on satisfactory cause shown by such delinquent, 11 order said forfeiture to be released and remitted.

XVII. It shall be the duty of the several Sheriffs to 2 furnish the Attorney General and the Solicitors of their 3 respective circuits, at the first Superior Court which shall 4 happen after the tax lists are placed in their hands for 5 collection, with a list of all the persons liable for taxes 6 under this act, and who have failed to give in their tax; 7 and, upon such information, the Attorney General and 8 Solicitors of the several circuits, shall have power and authority 9 to file bills in the several Courts of Equity in this 10 State, against each and every person failing to render a 11 list of taxables and taxable property as by this act required, 12 and compel a discovery upon oath, which discovery 13 shall not be held and deemed evidence to convict such 14 person for any penalty by this act annexed to such 15 failure.

XVIII. It shall be the duty of the Justice appointed 2 to take the list of taxable property, to list the articles 3 herein required to be listed, in separate columns, headed 4 as follows:—MONEY DUE, DIVIDEND AND PROFITS, &c. &c. 5 &c. And the Clerks of the several County Courts shall 6 record, advertise and return the same to the Comptroller's 7 Office, in the same manner, and in case of failure, 8 under the same penalties, forfeitures and liabilities as are 9 now prescribed by law in relation to other taxes.

XIX. *Be it further enacted,* That all persons in listing 2 their property, shall give in, under the respective heads

3 of "MONEY DUE"—"Dividend and Profit"—"Salaries and
 4 Fees"—"Plate"—"Buggies, Barouches, and Carriages"—
 5 and "toll-bridges and ferries"—*the amount of the tax to*
 6 *be paid* by him, her or them, to be estimated according
 7 to the provisions of this act, and not the amount
 8 of the property or the profits from the same, on
 9 which the tax is imposed; and the Justices of the Peace
 10 taking the tax-lists shall see that it is given in accord-
 11 ingly.

XX. It shall be the duty of the Public Treasurer to
 2 have prepared and printed, on suitable paper, forms of
 3 tax lists, with all the articles subject to taxation and to
 4 be listed under this act and all other laws now in force,
 5 mentioned *seriatim* over the heads of parallel columns,
 6 in which the amount or quantity of each article to be list-
 7 ed is to be set down; and shall furnish to each County
 8 Court Clerk in this State two copies of the same for each
 9 tax collection district in said county; and the cost of pre-
 10 paring and printing the same, shall be paid out of the
 11 Public Treasury.

XXI. It shall be the duty of the Register in each and
 2 every county, on or before the first day of September, in
 3 each and every year, to furnish the Comptroller with
 4 a certificate of the name of the Sheriff of his county, and
 5 the sureties to his bond for the collection of public taxes,
 6 and a certificate of the name of the clerk of the County
 7 Court, and the sureties to his bond for the faithful dis-
 8 charge of his duty in office; which certificates, when certi-
 9 fied by the Comptroller, shall, on motion of the Treasurer
 10 for judgment against any such Sheriff or Clerk, and their
 11 respective sureties, be deemed equally valid in law, with
 12 the bond of such Sheriff or Clerk, and the Court shall
 13 give judgment and award execution thereon accordingly.

XXII. If any Register shall fail to furnish the Comp-
 2 troller with such certificates, as directed in the last
 3 section, he shall forfeit and pay the sum of one thousand
 4 dollars, in each case, to be recovered by the Treasurer for
 5 the use of the State.

XXIII. *Be it further enacted*, That all the persons and
 2 property, herein taxed, shall not be liable to be taxed by
 3 the several County Courts.

XXIV. *And be it further enacted*, That an act, entitled
 2 "An Act to increase the Revenue of the State" and rat-
 3 ified on the 29th of January, 1849, and all other laws
 4 and clauses of laws, coming within the meaning and pur-
 5 view of this act be, and the same are hereby repealed.

[SENATE Doc. 111.]

REPORT

OF THE

JOINT SELECT COMMITTEE

ON THE

INSTITUTION FOR THE DEAF & DUMB.

RALEIGH :

Thos. J. Lemay, Printer to the State.

1851.

96

SENATE, Jan. 24, 1851

[Reported by Mr. HAUGHTON. Laid on the table, and proposition to print, sent to House of Commons.]

REPORT.

The Joint Select Committee of the two Houses, to whom was assigned the duty to "examine and enquire into the pecuniary affairs of the Institution for the Deaf and Dumb, how the Superintendent is paid, in what manner the printing and other mechanical establishments connected with the Institution are supported, beg leave to report,

That there have been appropriated thirty thousand dollars, consisting of six annual instalments of \$5,000 each) by the Legislature of North Carolina for said Institution:

That there were appropriated and paid by

Counties, for fifteen pupils,	30,000 00
First Session,	1,125 00
From do. for 23 pupils 2nd Session,	1,725 00
From do. for 29 do. 3d do.	2,175 00
From do. for 27 do. 4th do.	2,025 00
From do. for 18 do. 5th do.	1,350 00
	<hr/>
	\$33,400 00
Amount of special appropriation under the Act of the year 1849, chap.	5,000 00
Do. do,	2,500 00
Add amount of Legislative appropriations and those by Counties,	38,400 00
	<hr/>

The whole amount which has gone to the Institution from all sources, is, 45,900 00
Of the above sum of \$45,900 00, there has

been paid to W. D. Cooke, for support and instruction of pupils as follows, viz :

15 pupils for 1st Session of 10 months,	2,400 00
23 do. for 2d do. do.	3,757 00
29 do. for 3d do- do.	5,190 00
27 do. for 4th do. do.	4,390 00
22 do. for 5th do. do.	3,190 00

116 pupils in all to the close of the 5th } Session.	\$20,127 00
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Amount expended for buildings, furniture, and

for which vouchers &c. have been exhibited, 20,267 29

Your Committee have ascertained that the Printing Press and other necessary appendages have been provided by the Board of Directors at the cost of \$488, which, upon an examination of a practical printer, they are satisfied was a fair and reasonable price. There have also been furnished to the Institution, by the Board, some tools for mechanical purposes, with which the pupils occasionally work, for the purpose of learning to do cabinet and carpenter's work, and shoe-making.

The Board of Directors entered into an engagement with Mr. Cooke, the Principal of the Institution, to the effect, that he was to have the use of the printing press and other materials for the purpose of instructing the pupils in the art of printing, but that he was to provide a practical printer at his own cost, as well as the paper and every thing else connected with printing, and that whatever loss or gain should be the result of the arrangement, should be his. They have appended herewith a paper marked B, as evidence of the operation of the system.

Your Committee submit a statement furnished by the Principal, of the expenses and profits of the printing establishment.

Your Committee cannot dismiss this part of the subject, without expressing the decided conviction with which they are impressed, of the great importance to the welfare and future usefulness of the pupils, of acquiring, while connected

with the Institution, a knowledge of some mechanic art; for while the great and noble aim of those who established and have fostered the Institution, is to enlighten the mind and improve the heart of the unfortunate beings, whom an al-wise God in his inscrutable Providence has seen proper to afflict; yet they believe that it will materially contribute to the humane purpose of the authors of this noble charity to give them, as far as possible, a knowledge of some useful trade. Such is believed to be the experience and practice of other similar Institutions.

In one of the Reports of the Institution for the Deaf and Dumb of New York, it is said, that "employment of the pupils out of school has been a subject of solicitude and enquiry. A portion of that time must necessarily be devoted to study, and yet several hours in the day would still be consumed in idleness, if some useful occupation for the pupils were not provided."

Again—the benefits resulting from manual labor are immediate as well as prospective. It gives vigor to the Constitution, elasticity to the frame, and promotes cheerfulness and good feeling, while it holds out the certain prospect of future support. Experience has fully demonstrated the fact, that these advantages, and many more, are realised under this system, which, at the same time, has proved an auxiliary to the more rapid development of intellect.

One of the most useful features of the system is that which, by teaching each pupil a trade, prepares him for supporting himself by the labor of his own hands, and thus renders him independent of the aid of his friends and the public. Without the advantage of an apprenticeship in some useful art, they would be a burden on their friends or the public through life; whereas, by supporting them for a few years, and teaching them a trade, they not only become independent of the aid of others, but the community exchanges unprofitable consumers for producers, and, in the end, is perhaps fully repaid the expense which it has incurred in preparing them for usefulness.

Your committee, therefore, believe that the best interest of the Institution requires the connection of mechanical establishments with it; and especially so, when by the existing judicious arrangement, they are sustained without cost to the Institution.

Your committee have felt it their duty to inquire into the moral and social condition of the pupils, and after a very rigid and thorough examination, they believe that the Principal, (W. D. Cooke,) is kind and attentive to the pupils under his care, and that a proper and judicious government is exercised over them.

The subject of the annual charge per pupil in the Institution, has claimed the attention of the committee, and they have ascertained that it amounts, at present, to about the sum of \$183.

By reference to the report of the Board of Directors of the Institution, it appears that they entered into a contract with the Principal, "that he shall receive \$145 for each pupil; in consideration of which, and a salary of \$1,200, he is to furnish boarding of the pupils and all connected with the institution, including his own family; to furnish two teachers, a matron and all necessary servants, medical attendance of the pupils, clothing of such of the pupils whose parents are unable to furnish it, postage, expenses of parents, visiting their children, while here, books and stationery; and it is distinctly understood that there is to be no extra charge of any kind for services."

Your committee consider this a wise and very judicious arrangement, and one which the best interest of the Institution requires should not be disturbed.

In order that the Legislature and the public may have the means of forming a correct idea of the proper expense for each pupil at this institution, your committee hope and believe they will be rendering an acceptable service in publishing, together with this report, a statement of charges at similar institutions, which is taken from authentic sources, and which will be found appended marked A.

Your committee cannot dismiss this interesting subject, without stating that, after a very strict and careful investigation of the affairs of the institution, they are fully impressed with the belief that it has been managed with economy, judgment and fidelity by the Board of Directors: and they have every reason to believe (judging from the past) that, under their administration, the institution will flourish, and will be the means of untold blessings to that unfortunate class of our population for whose benefit it was established; and, in conclusion, cannot refrain from expressing the hope that the institution may long remain as a monument of the wisdom and the munificence of the Legislature of North Carolina.

All of which is respectfully submitted.

J. H. HAUGHTON, *Chairman.*

[A.]

NAMES OF INSTITUTIONS	Year	No of pupils	Annual Expense.	Expense of one pupil:
New York.	1827	63	13,580 00	\$ 214 44
do.	1829	68	12,161 00	178 80
do.	1830	85	16,923 00	199 00
do.	1837	150	26,866 00	179 00
do.	1838	155	33,008 00	212 95
do.	1839	169	28,059 00	166 00
do.	1840	152	25,119 00	165 20
do.	1841	162	31,596 78	205 17
do.	1843	173	25,334 49	146 44
do.	1844	160	29,467 78	184 17
do.	1845	200	39,551 44	197 75
do.	1846	208	67,421 58	324 14
do.	1847	225	41,289 00	183 50
American Asylum.	1844	133	54,763 47	411 75
do.	1845	162	46,792 13	289 45
do.	1846	182	52,753 43	289 85
do.	1847	198	41,689 32	210 55
do.	1848	203	58,059 79	290 93
do.	1849	205	57,801 29	281 95
Philadelphia Institute.	1840	58	8,569 93	147 75
do.	1841	106	18,716 91	176 52
do.	1845	106	20,164 00	190 00
do.	1847	112	21,835 00	194 80
do.	1849	107	19,371 14	181 03
Virginia Institution.	1841	23	5,935 00	256 00
do.	1842	26	5,097 00	242 00
do.	1849	59 D & D 41 Blind	21,793 00	217 93
N. C. Institution.	1845	17	2,720 00	160 00
do.	1846	23	3,910 00	170 00
do.	1847	29	4,930 00	170 00
do.	1848	27	4,590 00	170 00
do.	1849	22	4,390 00	199 00
do.	1850	30	5,550 00	185 00

From the above table we have the following averages of the cost of annual Pupils in Five Institutions. The most correct method of comparing the expense of different Institutions, would be to take the *whole expense* of each to the

State, including buildings &c. In the above table the amounts are taken from the annual reports, *after the buildings had been erected*. These amounts, however, in some instances, include additions and repairs. In the estimate of the N. C. Institution the actual cost of each pupil per session is put down. The result shows that the expenses of our Institution are lower than either of the others mentioned.

AVERAGES.

Virginia Institution	\$ 238 64
Philadelphia do.	178 02
Hartford do.	295 74
New York do.	196 66
N. Carolina do.	175 66

Average of the Virginia, Philadelphia, Hartford and New York Institutions, \$227 26.

If we estimate the whole cost of buildings, enclosing, furnishing and outfit of the Institution, together with every other expense, the average cost per pupil has been \$274,28.

[B.]

INCOME OF THE PRINTING OFFICE.

Proceedings of Grand Lodge,	\$ 125 00
Blanks for do.	36 00
Life Insurance,	102 00
Fire do	20 00
Blank Protests	9 00
“ Letters say	5 00
R. R. Checks,	17 00
By-Laws,	120 00
Catalogues,	32 00
From Subscribers to Deaf Mute,	163 00
Dinner Tickets,	3 00
Labels,	15 00
Work of past month,	27 25
Hand Bill,	5 00
Cards,	10 00
Law Book, (when finished)	336 00
Volume of I. O. O. F. Proceedings, (if all are sold)	600 00
Proceedings of Grand Lodge this year.	100 00
	<hr/>
	\$1,625 25

In the above calculation is included what will be received for a Law Book *when completed*. This is but just commenced and most of the expense upon it has yet to be incurred. There is also a Volume of Proceedings of I. O. O. F., which has been published at the risk of the Principal, the sale of the *whole* of which is *very doubtful*. The above items, it is believed, embrace the most of the work done; it is not, however, rendered as having been taken from books, but as what could be remembered at this time.

EXPENSES OF PRINTING OFFICE.

C. W. Field, bills		\$ 301 49
J. T. White's bills		575 19
Burnop & Babcock,		39 49
Paper of J. D. Royster,		10 00
From Pearson & Conger, bill		20 13
Press work,		4 00
G. Mather,		13 90
Paid wages,		478 00
Paper,		192 25
Writing paper,	say	25 00
Pressing Boards,		4 50
White & Sheffield,		11 00
Candles.		23 76
		<hr/>
		\$1,698 41

The above is the amount for which I have bills or which I know to have been expended for the Printing Office. There are other items of expense which cannot be ascertained without much trouble and time.

The above is, from February, 1849.

[HOUSE Doc 112.]

A BILL

TO

PROVIDE FOR THE INCREASE

OF THE

PUBLIC REVENUE

AND

FOR OTHER PURPOSES.

RALEIGH:

Thomas J. Lemay, Printer to the State.

1851.

[House Dec 1851]

REPORT OF THE

A BILL

House of Commons, Jan. 27, 1851:

[Ordered to be printed:]

A BILL

To provide for the increase of the Public Revenue and for other purposes.

I. *Be it enacted by the General Assembly of the State of North Carolina, and it is hereby enacted by the authority of the same,* That hereafter there shall be levied annually the sum of three cents upon every dollar of interest secured or actually owing from or by any solvent debtor or debtors, whether from individuals, companies, corporations, or in any other way; upon all sums of money at interest, whether in this State or out of it, at any time during the year next preceding the time when the owner or owners thereof shall give in his, her or their tax list: *Provided,* that guardians shall give in the money of each of their wards as a distinct and separate fund, and not as a fund held in common.

II. *Be it further enacted,* That hereafter there shall be levied annually the sum of twenty cents upon every hundred dollars employed in buying and selling slaves, and that there shall be levied annually the sum of ten cents upon every hundred dollars vested in every other species of trade; and the sum of three cents upon every dollar of dividend or profit actually due or received upon sums of money vested in steam vessels (excepting the profits of such vessels as are under the burden of twenty tons,) or vested in stocks of any kind, or in shares of any incorporated or trading company, whether in this State or out of it, at any time during the year immediately preceding the time when the owner or owners thereof shall give in his, her or their tax list; *Provided,* That this act shall only authorize the taxing of such profits as the Banks of this State shall make from trading in stocks

17 and bonds as distinguished from "bills receivable," and
18 *provided further*, that every person shall have thirty dol-
19 lars of interest, dividend or profit, and an amount equal
20 to the sum of interest, which he, she or they owe or pay
21 or secure to be paid on his, her or their own debt or
22 debts, which shall not be subject to the tax imposed by
23 this act, and *provided further*, that this act shall not ex-
24 tend to the interest or dividends accruing to any literary
25 institution, or to funds appropriated for public or private
26 charities, devoted to the purposes of education, or to the
27 maintainance of the poor or afflicted.

III. *Be it farther enacted*, That so much of the capi-
2 tal stock in trade of any merchant or jeweler, wholesale or
3 commission merchant, as is now taxed by the 14th section
4 of the 102 chapter of the Revised Statutes, shall be ex-
5 empt from the provisions of this act, *Provided*, That the
6 interest on all bonds, or notes which any such merchant,
7 jeweler, wholesale or commission merchant may own over
8 and above the amount of the interest upon his own in-
9 debtedness and thirty dollars, shall not be considered as
10 a part of his capital stock in trade, but shall be subject
11 to the tax imposed by the first section of this act.

IV. *Be it further enacted*, That hereafter, there shall
2 be imposed and levied annually the following taxes, to
3 wit : On all Surgeon Dentists, all practicing Physicians,
4 all practicing Lawyers, and on all other persons, (except
5 Ministers of the Gospel of every denomination, Governor
6 of the State and Judges of the Supreme and Superior
7 Courts) whose practice, salaries or fees, or all together,
8 shall yield an annual income of five hundred dollars, the
9 sum of three dollars for the first five hundred, and two
10 dollars for every additional five hundred dollars.

V. *Be it further enacted*, That hereafter there shall be
2 annually imposed and levied on each and every incor-
3 porated Lodge of Masons, on each and every incorpora-
4 ted Chapter of Royal-Arch Masons; on each and every
5 incorporated Lodge of the Independant Order of Odd

6 Fellows; on each and every incorporated Encampment of
7 the Independent Order of Odd Fellows, on each and
8 every incorporated Tent of the Independent Order of
9 Rechabites; and on each and every incorporated Divi-
10 sion of the Sons of Temperance; a tax of two dollars
11 and fifty cents, to be listed under the head of "Incor-
12 porated Societies" by the chief or presiding officer of
13 said associations, at the same time such presiding officer
14 shall give in his own tax list.

VI. *Be it further enacted*, That there shall be imposed
2 and levied annually an *ad valorem* tax of one per centum
3 on all gold and silver plate, and ornamental jewelry, in
4 use by the owner or owners thereof, of the value of fifty
5 dollars or upwards; on all sulkies, gigs, buggies, barouches,
6 carriages, and all other pleasure vehicles whatsoever, in
7 use by the owner or owners thereof, of the value of sev-
8 enty-five dollars and under one hundred dollars, fifty
9 cents; on all of the value of one hundred dollars and
10 under two hundred dollars, one dollar; on all of the
11 value of two hundred dollars and under three hundred
12 dollars, two dollars; on all of the value of three hun-
13 dred dollars and under four hundred dollars, three dol-
14 lars; and on all of the value of four hundred dollars and
15 upwards, four dollars; on all gold watches, one dollar,
16 and on all silver watches twenty-five cents, in use,
17 (except such of each as are kept in shops and stores for
18 sale;) on all harps in use by the owner or owners thereof,
19 two dollars; on all piano fortes in use by the owner or
20 owners thereof, one dollar; on all pistols (except such as
21 shall be used exclusively for mustering, and also those
22 kept in shops and stores for sale,) one dollar each; on
23 all bowie knives, one dollar each; and dirks and sword-
24 canes, fifty cents each; (except such as shall be kept in
25 shops and stores for sale;) *Provided however*, that only
26 such pistols, bowie knives, dirks, and sword canes as are
27 used, worn, or carried about the person of the owner, shall

28 be subject to the above named taxes ; on all retailers of
29 wines, cordials, or spirituous liquors, *ten dollars*; on all
30 Billiard Tables, *one hundred dollars* ; on all Bowling Al-
31 lies, whether called "Nine Pin," or "Ten Pin" Allies,
32 or by any other name, *twenty-five dollars* ; on every pack
33 of playing cards, *twenty-five cents*; and every merchant,
34 shop keeper and public dealer, in goods, wares, merchan-
35 dise, or other thing, shall be liable for the same, and shall
36 state on oath, how many packs, he or she has sold within
37 the year, preceeding the time, he or she shall give in his
38 or her tax list ; on all mortgages and deeds of trust,
39 which shall be registered, the sum of one dollar; and the
40 Register in each and every county shall be liable for the
41 same, and he is hereby required to give in to the Jus-
42 tice taking the list of taxable property, the number of
43 mortgages and deeds of trust by him registered in the pre-
44 ceding year, under a penalty of one hundred dollars, to be
45 collected by the Sheriff, and to pay the amount of taxes
46 thereon, after deducting six per centum for his commissions,
47 and the said Register shall not be required to reg-
48 ister any mortgage or deed of trust, until the person or
49 persons presenting the same, shall have paid the tax
50 hereby imposed, in addition to the fees now by law estab-
51 lished.

VII. *Be it further enacted*, That the owner or owners
2 of every toll-bridge or ferry in this State, shall here-
3 after pay annually a tax equal to five times the sum of
4 the largest toll by him or them demanded and received.

VIII. *Be it further enacted*, That the agent or agents
2 of all insurance companies, not incorporated in this State,
3 shall hereafter pay an annual tax of fifty dollars, in
4 every county where such agency shall be established, to
5 be collected and accounted for by the sheriffs of the sev-
6 eral counties as other taxes; and in case the said agent or
7 agents shall fail to pay the tax hereby imposed, he or

8 they shall be individually liable for a tax of one hundred
9 dollars, to be collected by the Sheriff of the county where
10 such failure takes place, by distress and sale of the pro-
11 perty of the said agent or agents, to be applied three-
12 fourths to the use of the State, and one-fourth to the use
13 of the Sheriff collecting the same:

IX. Every person who shall bring any horses or
2 mules into this State, from any other State by the drove
3 and shall dispose of the same or any part thereof, in
4 any county in this State, shall pay to the Sheriff of every
5 such county, the sum of five dollars, which tax shall be
6 accounted for by the Sheriff in like manner as other public
7 taxes; and upon payment of such tax, and a receipt there-
8 for, and a license to sell such droves or part thereof, such
9 person shall be authorized to sell and retail such horses
10 or mules that may belong to their present droves, and no
11 others for the term of one year; and each and every per-
12 son who shall sell such drove of horses or mules, or any
13 part thereof, without previously having paid the tax there-
14 on, and without having obtained a license so to do, or
15 who shall refuse or neglect, upon the request of the Sheriff
16 or his lawful deputy, or any Justice of the Peace, to show
17 such license, shall pay a tax of one hundred dollars, to be
18 collected by the Sheriff of the county, where such failure
19 takes place, by distress and sale of the property of such
20 delinquent, to be applied, one half to the use of the State,
21 and one half to the use of the Sheriff.

X. Each and every company of circus riders or equestri-
2 an performers, and each and every person or company
3 who shall exhibit any collection of animals, commonly
4 known as a menagerie, for reward, shall previously to ex-
5 hibiting or performing in any county in this State, pay
6 to the sheriff thereof fifty dollars, and all Ethiopian sere-
7 naders, comic singers, and performers on musical instru-
8 ments, who exhibit or perform for reward, five dollars, as
9 a tax to the State, to be accounted for by the Sheriff as

10 other State taxes : and on paying such tax, the Sheriff
11 who receives the same shall give a license to exhibit or
12 perform in his county, which license shall contain a list
13 of such animals, or personal performances, or other ar-
14 ticles to be exhibited, and in that case, such company or
15 person shall be authorized and permitted to perform and
16 exhibit, as aforesaid, in such county, and no other, for
17 the space of one year thereafter, and each and every
18 company of circus riders or equestrian performers,
19 or Ethiopian serenaders, comic singers and performers
20 on musical instruments, or exhibiter of any collection of
21 animals, commonly known as a menagerie, who shall per-
22 form or exhibit in any county in this State, without pre-
23 viously having paid the tax herein directed, shall be lia-
24 ble to a forfeiture of one hundred dollars, to be collected
25 by the Sheriff, by distress and sale of the property of such
26 delinquent, and to be applied one half to the use of the
27 State and the other half to the use of the Sheriff:

XI. *Be it further enacted*, That the taxes, by this act
2 imposed, shall be returned on oath to the Justices of the
3 several counties in this State, appointed to take the list
4 of taxables and taxable property; and shall be collected
5 by the Sheriffs of the several counties at the same time,
6 and in the same manner in which they now collect other
7 State taxes, and shall by them be paid into the Treasury
8 of the State, at the same time and under the same penal-
9 ties which are now prescribed by law, for the collection
10 and payment of other State taxes.

XII. Each and every person shall annually render to
2 the Justice of the Peace appointed to take the list of
3 taxables and taxable property, the amount of tax which
4 he, either in his own right, or in the right of any other
5 person or persons whomsoever, either as guardian, attor-
6 ney, agent or trustee, or in any other manner whatsoever
7 is liable for under the Revenue laws of this State, and it
8 shall be the duty of the said Justice to administer the

9 following oath to each and every person giving a list of
10 taxables and taxable property: You, A. B., do solemnly
11 swear, (or affirm, as the case may be,) that you, either in
12 your own right or the right of any other person or per-
13 sons whomsoever, either as guardian, attorney, agent or
14 trustee, or in any other manner whatsoever, are not lia-
15 ble for more taxes under the laws of this State, than the
16 amount which you have now listed, and that in all other
17 respects, the list by you now delivered, contains a just
18 and true account of all the property which by law you
19 are bound to list for taxation, to the best of your knowl-
20 edge and belief: so help you God.

XIII. It shall be the duty of every Justice of the Peace
2 who shall take a list of taxable property, before adminis-
3 tering the oath aforesaid, to call over to each person giv-
4 ing in his taxables, all the articles and subjects of taxa-
5 tion which he may be bound to list.

XIV. Each and every person liable to pay taxes by
2 and under the provisions of this act, who shall fail to list
3 their taxable property, or any part thereof, or refuse
4 to take the oath herein prescribed, shall, in addition
5 to the payment of a double tax, forfeit and pay
6 into the Public Treasury the sum of one hundred
7 dred dollars for each year's failure or refusal; and it shall
8 be the duty of the several Sheriffs aforesaid, to levy, col-
9 lect and account for the same, as in case of double tax,
10 unless the County Court shall, within nine months there-
11 after, on satisfactory cause shown by such delinquent,
12 order said forfeiture to be released and remitted.

XV. It shall be the duty of the several Sheriffs to
2 furnish the Attorney General and the Solicitors of their
3 respective circuits, at the first Superior Court which shall
4 happen after the tax lists are placed in their hands for
5 collection, with a list of all the persons liable for taxes
6 under this act, and who have failed to give in their tax-
7 able property or any part thereof; and, upon such infor-

8 mation, or any other information, or upon good reason
9 to believe that any person has failed to list his tax-
10 able property, the Attorney General and Solicitors
11 of the several circuits, shall have power and authority
12 to file bills in the several Courts of Equity in this State,
13 against each and every person failing to render a list
14 of taxables and taxable property as by this act re-
15 quired, and compel a discovery upon oath, which discov-
16 ery shall not be held and deemed evidence to convict such
17 person for any penalty by this act annexed to such
18 failure.

XVI. It shall be the duty of the Public Treasurer to
2 have prepared and printed, on suitable paper, forms of
3 tax lists, with all the articles subject to taxation and to
4 be listed under this act and all other laws now in force,
5 mentioned *seriatim* over the heads of parallel columns,
6 in which the amount or quantity of each article to be list-
7 ed is to be set down; and shall furnish to each County
8 Court Clerk in this State two copies of the same for each
9 tax collection district in said county; and the cost of pre-
10 paring and printing the same, shall be paid out of the
11 Public Treasury.

XVII. It shall be the duty of the Justice appointed
2 to take the list of taxable property, to list the articles
3 herein required to be listed, in separate columns. And
4 the Clerks of the several County Courts shall record,
5 advertise and return the same to the Comptroller's
6 Office, in the same manner, and in case of failure,
7 under the same penalties, forfeitures and liabilities as are
8 now prescribed by law in relation to other taxes.

XVIII. It shall be the duty of the Register in each and
2 every county, on or before the first day of September, in
3 each and every year, to furnish the Comptroller with
4 a certificate of the name of the clerk of the County
5 Court, and the sureties to his bond for the faithful dis-
6 charge of his duties in office; which certificate, when certi-

7 fied by the Comptroller, shall, on motion of the Treasurer
8 for judgment against any such Clerk, and his sure-
9 ties, be deemed equally valid in law, with the bond of
10 of such Clerk, and the Court shall give judgment and
11 award execution thereon accordingly.

XIX. If any Register shall fail to furnish the Comp-
2 troller with such certificates, as directed in the last
3 section, he shall forfeit and pay the sum of one thousand
4 dollars, in each case, to be recovered by the Treasurer for
5 the use of the State.

XX. *Be it further enacted*, That all the persons and
2 property, herein taxed, shall not be liable to be taxed by
3 the several County Courts.

XXI. *And be it further enacted*, That an act, entitled
2 "An Act to increase the Revenue of the State" and rat-
3 ified on the 29th of January, 1849, and all other laws
4 and clauses of laws, coming within the meaning and pur-
5 view of this act be, and the same are hereby repealed,
6 *provided*, that this repealing clause shall not affect the
7 collection of any taxes now due under the revenue laws
8 of this State.

by the Commission shall be taken as the basis for
 on judgment against any such Clerk, and his
 on behalf, shall be paid in full with the bond of
 such Clerk, and the Court shall be satisfied and
 and execution thereon accordingly.

XIX. If any party shall fail to furnish the
 with such certificate, as directed in the
 order be satisfied and pay the sum of one thousand
 and the same be recovered of the "responsible

X. If any party shall fail to furnish the
 with such certificate, as directed in the
 order be satisfied and pay the sum of one thousand

XXI. If any party shall fail to furnish the
 with such certificate, as directed in the
 order be satisfied and pay the sum of one thousand

XXII. If any party shall fail to furnish the
 with such certificate, as directed in the
 order be satisfied and pay the sum of one thousand

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